CANADA.

DOMINION LANDS REGULATIONS.

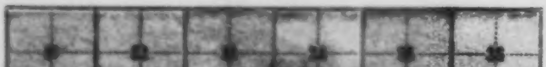
School
29
Lands
H. B. Co's
26
Lands
H. B. Co's
8
Lands
School
11
Lands

Diagram showing the division of a Township into sections. Each section—a square mile—is sub-divided into quarter sections of 160 acres. Those shaded green are reserved for Free Grant Homesteads and their attached Pre-emptions.

92-00356/

THE ADMINISTRATION
of
DOMINION LANDS,
1870-1930

❧

THE ADMINISTRATION *of* DOMINION LANDS,

1870-1930

by

Kirk N. Lambrecht

❧

CANADIAN PLAINS RESEARCH CENTER
1991

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DEDICATION

This book is dedicated to my grandparents, who homesteaded and farmed in Alberta in the early decades of this century; and to my parents, who gave me an enduring appreciation of that time.

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PREFACE

This book developed from a paper delivered by the author at the Western Canadian Legal History Conference held at the University of Calgary in April 1984. I am indebted to Andrew Thompson, former dean of the Faculty of Law at the University of Alberta, and then a member of the Faculty of Law at the University of British Columbia, for providing the author with an opportunity to combine historical and legal interests; to Dr. Louis A. Knafla, of the History Department of the University of Calgary, and to John P.S. McLaren, then Dean of the Faculty of Law at the University of Calgary, for the opportunity to deliver the paper at the conference and for encouraging the author to develop a further study; to Julius A. Isaac, Q.C., now of the Ontario Court of Justice General Division, for reviewing a very early version of the manuscript and for generous interest in the project; to Professor C. Levy of the Faculty of Law at the University of Calgary, Professor Graham Parker of the Osgoode Hall Law School, and to Dr. J. Edgar Rea of the Department of History at University College, University of Manitoba, all of whom acted as readers for the conference paper; to Dr. David Breen of the Department of History of the University of British Columbia, for his strong views on the potential value of a survey of this kind; to Dr. Frits Pannekoek, then Director of the Historic Sites and Archives Service at Alberta Culture, now Director of the Vancouver Museum, who volunteered to read a 1985 version of the manuscript and to receive a formal publication proposal in his capacity as a member of the editorial board of the Canadian Plains Research Center; to the late James M. Parker, formerly Archivist at the University of Alberta, for his inspiration in respect of historical study in western Canada; to Brian Mlazgar, Coordinator of Publications at the Canadian Plains Research Center, University of Regina, and his assistant, Agnes Bray, for their unfailing efforts in support of the manuscript; to Dr. Irene M. Spry, who took time from a busy schedule to enter into a stimulating correspondence respecting the manuscript; to my several friends, in particular Kenneth Tingley, William Ng, John Gilpin, Kevin Dodds and Richard Maranchuk, who were always willing to discuss the project in its various phases and who were instrumental in encouraging the study to proceed; and to my typist, Charlene Playfair.

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The views expressed in this book, and any errors of fact or interpretation, are those of the author.

Kirk N. Lambrecht
Edmonton, Alberta
August 1991

THE ADMINISTRATION OF DOMINION LANDS, 1870-1930

> When we consider the public domain from the point of view of the sale and disposal of public lands ... we are brought face to face with the frontier.
>
> Frederick Jackson Turner
> *The Significance of the Frontier in American History*

Introduction

This work is a survey of laws adopted by Parliament between 1870 and 1930 for lands which today fall within the western provinces and northern territories of Canada and which were contemporaneously referred to as Dominion Lands, the Railway Belt and the Peace River Block. These laws are found in legislation enacted by Parliament, and in orders in council promulgated by the governor in council. This study is primarily directed to identification of these acts and orders in council, and to organization of these laws by subject, in order to serve as a reference guide for students and researchers in a wide variety of disciplines. In this area, Chester Martin's 1938 book *"Dominion Lands" Policy* is widely regarded as "the best available on the subject,"[1] although Martin emphasized only policies related to construction of railways and to settlement. Other equally important initiatives were omitted or were given only "outline" treatment[2] including lease or sale of mineral, ranching and school lands, licensing of timber lands, reservation of forest reserves and national parks, and conservation. This study surveys the "details of administration"[3] in these areas by identifying the applicable legislation and orders in council.

This book has three main components. A short essay addresses, in historical perspective, the main policy developments in the period 1870 to 1930 and is intended to introduce the reader to the legislation and regulations which reflected these policy developments. Appendix I ("A Listing of Land Use Regulations") is a comprehensive listing of land use regulations promulgated by orders in council in the period to 1930. Over seventy series of regulations are identified; and the date and Privy Council number (where known) of the orders in council which established and amended these is provided. This unique listing is intended to serve as a starting point for those whose research leads to the intricate regulatory structure developed by the federal government in relation to Dominion Lands, the Railway Belt and the Peace River Block. Appendix II ("Selected Legislation") is an arrangement of selected acts of Parliament and orders in council governing settlement, coal mining, grazing, timber development and several other subject areas. Publication of original materials is a familiar and well acknowledged practice in respect of historical research and Appendix II is intended to serve as a case book or a reader in the law governing some of the primary subjects of federal policy during the period 1870 to 1930. The format adopted for Appendix II is both topical and chronological. For each subject area selected acts and orders in council are presented chronologically. In this way it is hoped that the development of policy over time will be apparent.

The legislation surveyed in this study is not easily accessible today without the expenditure of many long hours of library research in order to identify the acts and the orders in council governing a particular subject. It is hoped that this book will improve and enhance accessibility and so contribute to further scholarship and to better understanding of this formative historical period.

The acts of Parliament may be found in the *Statutes of Canada*, 1870 to 1930. In each of these years Parliament printed a volume of its legislation, a total of sixty volumes in the period. In addition, the statutes were consolidated three times: in 1886, 1906 and 1927. Each consolidation resulted in an additional three volumes, and only the last two consolidations include a separate index volume. The regulations were consolidated only once, in 1889. As a result, there are seventy-two volumes which may include relevant acts of Parliament or orders in council germane to a particular research topic.

Most acts of Parliament delegated power to make regulations to the governor in council and this power was used extensively. Many detailed regulations were issued and these must often be considered together with the statutes in order to develop a full appreciation of the law governing a subject area.

Regulations are found in orders in council adopted by the governor in council, and today can be located in the *Statutes of Canada*, the *Sessional Papers*, the unpublished volumes of orders in council prepared by the Department of the Interior, and in the *Canada Gazette*. These materials are not always available, particularly outside of major urban centres; and, in any event, research in these materials is made difficult by limitations in indices and finding aids. Appendix I, "A Listing of Land Use Regulations," is intended to fill a gap in this respect and should greatly facilitate location of orders in council in a particular subject area.

Some annual volumes of the *Statutes of Canada* contain a selection of orders in council, but on the whole the *Statutes of Canada* are an incomplete source for them. Not all regulations were reprinted in the *Statutes of Canada*, and in many years regulations were not printed at all. The statutes therefore do not support comprehensive research into the regulations adopted by orders in council.

The *Sessional Papers* of the House of Commons are also an incomplete reference source. It seems to have been the usual (but not absolute) practice to exclude regulations from the materials printed in the *Sessional Papers*. The *Sessional Papers* are also large, containing up to ten volumes for each year.

Unprinted volumes of orders in council prepared by the Department of the Interior are very useful in respect to regulations administered by that department, but are rare books. As such, they are difficult to locate and, when located, are usually subject to access restrictions associated with rare book use.

The *Canada Gazette* is the source of orders in council most widely available to researchers today, though it should be noted that many libraries do not have complete sets of the *Gazette* for the period 1870 to 1930. Regulations were to have been published in the *Canada Gazette* in order to have the force of law and as a result the *Gazette* is a relatively complete, but extremely voluminous, collection of orders in council. Reference to the *Canada Gazette* involves a number of practical difficulties. Hardbound copies of the *Gazette* are difficult to locate. Microfilm copies of the *Gazette* are usually contained on reels and involve use of a reader-printer with associated scrolling of the reel. Extensive scrolling is required since the *Gazette* for each year often contains more than two thousand pages. Printouts obtained from a microfilm reel can be of poor quality and are relatively expensive. Finally, the indices for the *Canada Gazette* of the period do not readily support research by subject.

Two simple examples will illuminate the magnitude of the access difficulty involved in reference to these materials. Many hours of research may be necessary to identify and locate the law which defined what was necessary to obtain a homestead; or to identify those orders in council which established or amended the loan regulations under the *Soldier Settlement Act*. It is simply not true to say that these laws are readily accessible, even in well endowed libraries which have the *Statutes of Canada* and the *Canada Gazette* for the period. Many, many hours of reading in these two sources would be necessary to find these laws, hours which could be considerably shortened by reference to Appendix I and Appendix II of this survey.

In summary, a survey of this nature should assist others in studying the laws of the period. Ultimately one may ask what role the law may have played in shaping society in the period under review. In considering this question it is clear that two distinct steps are required in formulating an answer. The law must first be identified and documented. Then, and only then, can the effect of that law be analyzed. This survey is directed to the first, the fundamental step. The reader should not expect a definitive analysis here, for that is beyond the scope of this modest work. Just as surveyors preceded settlers in the development of western Canada, so this survey of the laws applicable to Dominion Lands, the Railway Belt and the Peace River Block precedes later works which may claim to develop the existing analysis of the period. At present it seems reasonably clear that the existing state of accessibility to these laws hinders this analysis, and this is something which surely can not be allowed to continue.

Acquisition of Dominion Lands

The foundation of federal lands policy rested upon the triumph of settlement over fur trade, presaged in 1870 when the government of the Dominion of Canada assumed ownership of lands in Rupert's Land and the North-West

Territories (NWT). The Hudson's Bay Company (HBC) had owned Rupert's Land in fee simple under its charter of 1670 from Charles II. This vast area was geographically defined by the watersheds of the rivers which flowed into Hudson Bay. The imperial Crown asserted ownership of the NWT, an area beyond the company's chartered property, and company operations in the area were authorized by a "License for Exclusive Trade" with a twenty-one year, renewable term.

By 1867 an end to the paternalistic administration of these lands by the HBC was compelled by the cession of Alaska to the United States and the increasing tempo of western settlement in the continental United States after the Civil War. A counter-balancing extension of the Canadian frontier was anticipated by section 146 of the *British North America Act*[4] and was accomplished by a series of transactions in 1869 and 1870.

The *Rupert's Land Act* of 1868[5] established the structure of these transactions. The imperial government was to receive a deed of surrender of Rupert's Land and the NWT from the HBC, and was to admit these lands into the Dominion by means of an order in council following an address from both houses of Parliament in Canada. To avoid an extended period of time between the surrender of these lands by the HBC and their admission to Canada, the *Rupert's Land Act* specifically provided that the surrender was not to be effective until the deed of surrender was accepted by the imperial government.

A joint address of the Senate and House of Commons of Canada pursuant to section 146 took place on 29 and 31 May 1869. On 19 November 1869, the HBC delivered its deed of surrender to the imperial government. The deed was accepted on 22 June 1870, and issuance the next day of the Rupert's Land and North-Western Territory Order[6] accomplished the admission of both areas to the Dominion effective 15 July 1870.

Creation of the Province of Manitoba from the lands admitted to the Dominion was a concession arising from the Red River Rebellion of 1869-1870, and was accomplished through the *Manitoba Act*. But the concession was limited in a manner which emphasized the expanded role of the Dominion government. The lands of the new province were to be "administered by the Government of Canada for the purposes of the Dominion."[7]

In 1905, when Alberta and Saskatchewan were created as provinces by the *Alberta Act* and the *Saskatchewan Act*, the Manitoba precedent was followed and the Crown lands within their boundaries were also dedicated to the "purposes of the Dominion," though both provinces received immediately an annual subsidy "in lieu of the public lands" which Manitoba did not begin to receive until 1881.[8]

The province of British Columbia entered Confederation with full control of its lands, mines and minerals. Under the 1871 terms of union between the province and the Dominion, the Dominion undertook to secure the construction of a transcontinental railway by 1881. The province agreed to convey to the Dominion an area of land along the length of the projected line through

British Columbia for a distance of twenty miles on each side of the line, an area of land referred to as the Railway Belt. When the "Pacific Scandal" delayed realization of a transcontinental line until 1885, some question arose as to the nature of the agreement to convey the Railway Belt to the Dominion. Political negotiations took place between the two levels of government and these resulted in an agreement accepted in 1883 and ratified by Parliament and the British Columbia legislature in 1884.[9] This agreement provided for the conveyance to the Dominion of the unappropriated lands in the Railway Belt; and also 3.5 million acres of land in the Peace River district of British Columbia east of the Rocky Mountains — the Peace River Block. Conveyance of the rectangular Peace River Block was made in compensation for lands already alienated in the Railway Belt, amounting to 295,000 acres, and in lieu of lands worthless for agricultural purposes due to the mountainous topography of the region. A dockyard and rail line on Vancouver Island were also involved.

While the transfer of these lands from British Columbia to Canada was referred to as a conveyance, this is a misnomer. Crown ownership in a federal state has been juridically described:

> The resources are vested in the Crown, which is one and indivisible, and the expressions ... [of conveyance] ... mean only that the Dominion or the Province, as the case may be, is entitled to their administration and control and to the beneficial use of the revenues derived from there.[10]

Conveyance by British Columbia of the Railway Belt and Peace River Block was, in substance, "an assignment of its right to appropriate the territorial revenues arising from such lands."[11]

Native Aboriginal Rights

Between 1871 and 1877 Dominion representatives negotiated seven major treaties in order to extinguish Native aboriginal rights in large areas which the Dominion hoped to develop in the immediate future. Adhesions to these treaties extended their provisions to groups which, for various reasons, were not included in the original negotiations. Several additional treaties were negotiated in the period to 1908. The numbered treaties, as they have come to be known, arose from the Dominion initiative to reduce conflicting claims to land in advance of settlement. But the Dominion did not extinguish Native aboriginal rights in all of the lands under its jurisdiction, and this gave rise to a domain in which aboriginal claims and settlement activity co-existed.

Some of the ceremony associated with treaty negotiations may be seen in an extract from an account of Lieutenant-Governor Alexander Morris describing the negotiation of Treaty Six. This is a description of an initial meeting with Plains Cree in August of 1876:

> I then proceeded to the Indian camp, together with my fellow Commissioners, and was escorted by Captain Walker and his troop.
>
> On my arrival I found that the ground had been most judiciously chosen, being elevated, with abundance of trees, hay marshes and small lakes. The spot which the Indians had left for my council tent overlooked the whole.

> The view was very beautiful: the hills and the trees in the distance, and in the foreground, the meadow land being dotted with clumps of wood, with the Indian tents clustered here and there to the number of two hundred.
>
> On my arrival, the Union Jack was hoisted, and the Indians at once began to assemble, beating drums, discharging fire-arms, singing and dancing. In about half an hour they were ready to advance and meet me. This they did in a semicircle, having men on horseback galloping in circles, shouting, singing and discharging fire-arms.
>
> They then performed the dance of the "pipe stem," the stem was elevated to the north, south, west and east, a ceremonial dance was then performed by the Chiefs and head men, the Indian men and women shouting the while.
>
> They then slowly advanced, the horsemen again preceding them on their approach to my tent. I advanced to meet them accompanied by Messrs. Christie and McKay, when the pipe was presented to us and stroked by our hands.
>
> After the stroking had been completed, the Indians sat down in front of the council tent, satisfied that in accordance with their custom we had accepted the friendship of the Cree nation.
>
> I then addressed the Indians in suitable terms, explaining that I had been sent by the Queen, in compliance with their own wishes and the written promise I had given them last year, that a messenger would be sent to them.
>
> I had ascertained that the Indian mind was oppressed with vague fears; they dreaded the treaty; they had been made to believe that they would be compelled to live on the reserves wholly, and abandon their hunting, and that in time of war, they would be placed in the front and made to fight.
>
> I accordingly shaped my address, so as to give them confidence in the intentions of the Government, and to quiet their apprehensions. I impressed strongly on them the necessity of changing their present mode of life, and commencing to make homes and gardens for themselves, so as to be prepared for the diminution of the buffalo and other large animals, which is going on so rapidly.
>
> The Indians listened with great attention to my address, and at its close asked an adjournment that they might meet in council to consider my words, which of course was granted.[12]

Similar reports may be found in the annual reports of the Department for the Interior for the period to 1879 when the Indian Branch became an independent entity.

Concerning extinguishment of Native rights, the operative provisions in each of the numbered treaties varied slightly. Treaties One and Two were sparsely worded:

> do hereby cede, release, surrender, and yield up to Her Majesty the Queen, and her successors forever, all the lands included within the following limits...[13]

This passage was expanded in scope commencing with Treaty Three:

> do hereby cede, release, surrender, and yield up to the Government of the Dominion of Canada, for Her Majesty the Queen and her successors forever, all their rights, titles and privileges whatsoever to the lands included within the following limits...[14]

The scope of the surrender was further expanded commencing with Treaty Four in an additional passage which appeared after the description of the geographical boundaries of the treaty:

> Also all their rights, titles and privileges whatsoever to all other lands wheresoever situated within Her Majesty's North-West Territories, or any of them, to have and to hold the same to Her Majesty the Queen and her successors forever.[15]

This passage was itself amended in Treaties Five and Six to include:

> any other Province or portion of Her Majesty's Dominions situated and being within the Dominion of Canada.[16]

It was further slightly altered in Treaty Seven.[17]

In return for this surrender the various Native groups received treaty rights as described in each treaty. Generally, Treaties One and Two are the least descriptive. These were revised in 1875 to include "outside promises" arising from the original negotiations. Treaty Three marks the commencement of expanded provisions which the subsequent treaties follow with minor variations. It was the hope of Dominion representatives who negotiated the treaties that the Natives would take up the agricultural way of life which the Dominion intended settlement to introduce to the region. To this end Treaty Three introduced a promise found in various forms in each of the subsequent treaties — the promise of agricultural implements and seed to those cultivating the soil. Treaty Seven, in the ranching lands of the south-west prairies, provided for cattle for raising stock as well as agricultural items.

Common to all of the treaties was the reserve, a promise of an area of land to be set aside for Natives. Reserves were created throughout the period to 1930. Lands set aside as reserves were withdrawn from the operation of the *Dominion Lands Act* by order of the governor in council, and came to be administered under the *Indian Act*. The *Indian Act* of 1876 contained a definition of the term "reserve." This definition included, but was not limited to, the reserve obligation described in the treaties, because reserves were set aside for Treaty and non-Treaty Indians. The *Indian Act* definition provided:

> 6. The term "reserve" means any tract or tracts of land set apart by treaty or otherwise for the use or benefit of or granted to a particular band of Indians, of which the legal title is in the Crown but which is unsurrendered, and includes all the trees, wood, timber, soil, stone, minerals, metals or other valuables thereon or therein.[18]

An examination of the administration of Native reserve lands, as administered under the *Indian Act*, falls outside the scope of this publication.[19]

Between 1872 and 1908 the *Dominion Lands Act* was restricted in its application. Parliament saw fit in this period to enact that the various provisions of that act would not apply to lands where the "Indian Title" was not extinguished. Practically, however, settlement extended beyond the geographical boundaries of the numbered treaties. By 1908, despite the negotiation of additional numbered treaties, it was apparent that the initiative to extinguish aboriginal rights was not and would not be achieved universally. The statutory provision which restricted the application of the

Dominion Lands Act to areas where aboriginal title was extinguished was removed in the general revision of the act that year. A domain had arisen in which Crown ownership and aboriginal claims co-existed. The significance of this development, though appreciated by Dominion officials of the time, did not arise in a practical form until after 1930. Conflicting claims to land in this domain were not avoided; they were merely deferred.

Métis Claims

The question of Métis claims arising from aboriginal heritage was addressed by Parliament in the *Manitoba Act* of 1870. Section 31 provided:

> 31. And whereas, it is expedient, towards the extinguishment of the Indian Title to the lands in the Province, to appropriate a portion of such ungranted lands, to the extent of one million four hundred thousand acres thereof, for the benefit of the families of the half-breed residents, it is hereby enacted, that ... the Lieutenant-Governor shall select such lots or tracts in such parts of the Province as he may deem expedient, to the extent aforesaid, and divide the same among the children of the half-breed heads of families residing in the Province at the time of the said transfer to Canada.[20]

An historian who described the importance of section 31 writes "the reason for this grant is obscure."[21]

The class of persons entitled to a claim under section 31 was described in regulations promulgated in 1871 concerning administration of the public lands in Manitoba as "every half-breed resident in the Province of Manitoba" on 15 July 1870. This did not accord with the definition of the class set out in section 31 of the *Manitoba Act*. As such the regulations constituted a unilateral expansion of the eligible class, from children of the heads of families to all residents. This was ultimately admitted by the Department of Interior to have been "an error."[22] It was an ill omen. The grant of lands to the Métis came to be distinguished for "ministerial incompetence, parliamentary indifference and administrative delay."[23] Indeed, the grant began with a mistake. The original intention to confer a benefit on Métis children was expressed poorly in the drafting of the *Manitoba Act*. The phrase "children of half-breed heads of family" excluded children of Native and Caucasian parents. Another act of Parliament[24] was necessary to achieve the original intent.

Lands were reserved for the Métis children pursuant to section 31, but the reserved lands were not immediately distributed. An initial census in 1870 estimated that 10,000 persons would share in the grant, with a distribution of 140 acres to each. But this census included Métis heads of families. When a legal opinion was given which ruled that these persons were not entitled to share in the *Manitoba Act* claims the estimated number of claimants was reduced to some 7,000 with a distribution of 190 acres each. By 1874 the Department of the Interior explained that further delay in this revised allotment was on account of conflicting claims to lands within the reserved area "of such a character as to prevent a division of the lands until such claims had been disposed of."[25] Further reason was found in the fact that the reserved lands bordered river lot settlements along the Red and

Assiniboine Rivers; and overlapped the area at the back of each lot referred to as the "outer two miles" where rights of hay and common were claimed.

Further investigation of the Métis claims by a commission appointed in 1875, supplemented by investigation of the Dominion Lands agent, reduced the estimate of potential claimants to 5,833. Although "no satisfactory explanation"[26] could be found for the difference between the initial census and the subsequent estimate, the latter was accepted in 1876 as the basis for distribution. Allotment of the land thereafter proceeded on a parish by parish basis in Manitoba until "completion of the allotment of the 1,400,000 acres" was reported in 1879.[27]

In the meantime Parliament made provision "for extinguishing the Indian title to such lands as respects the half-breed heads of families" residing in Manitoba on 15 July 1870. By an act of 1874 these persons were entitled to receive either "a grant of one hundred and sixty acres of land" or "scrip for one hundred and sixty dollars ... to be receivable in payment for the purchase of Dominion Lands" at the current price of one dollar per acre.[28] An order in council in 1876 adopted a recommendation of the minister of the Interior that scrip only be used to satisfy these claims:

> in view of the great dissatisfaction which has been caused in Manitoba by the locking up of large and valuable tracts of land for distribution among Half-Breeds, thus seriously retarding the settlement of the country.[29]

The minister also noted that such a course "would not be unsatisfactory to claimants."[30] The Department of the Interior reported in 1879 that scrip authorized by this act "has been issued" to those entitled, some 3,102 persons, and that only "a limited number of claims of a special character" remained.[31] The issuance of scrip to the Métis in this and in subsequent distributions has been severely criticized as exposing them to the vagaries of speculators.[32]

The question of aboriginal claims by Métis was not concluded with the distribution of land or scrip to Métis in Manitoba. The *Dominion Lands Act* of 1879 was amended to allow the governor in council to satisfy claims advanced by Métis who were resident in the NWT outside of Manitoba. The Act provided for "granting land to such persons, to such extent and on such terms and conditions, as may be deemed expedient."[33] The exercise of this power was also distinguished by delay. Prime Minister Macdonald came to the position of minister of the Interior and he reported in 1881:

> The condition of the Half-Breed population of the Territories, and the claims which have been preferred on their behalf to be dealt with somewhat similarly to those of the Half-Breeds of the Red River, have been receiving careful consideration, with a view to meeting them reasonably.[34]

But this consideration was not perceived by those affected. According to one historian:

> The agitation continued. Meetings were held, resolutions passed, and memorials forwarded to Ottawa. But the machinery of the Government moved slowly.[35]

In 1884 two reports were forwarded to Ottawa dealing with Métis claims. One

> was apparently buried among the departmental files until February 1885, when, in view of the alarming reports of a possible métis rising the government hastily approved the report.[36]

On 30 March 1885, four days after the first fighting at Duck Lake, an order in council was promulgated[37] which extended scrip entitlements to the Métis of the NWT.

These entitlements were broadly similar to the entitlements received by the Manitoba Métis. Each child was to receive either $240 in scrip redeemable in Dominion Lands, or a land scrip entitling that person to select 240 acres of land from any lands open for homestead entry. Each head of a family was to receive $160 in scrip redeemable in Dominion Lands. A commission was appointed which distributed 1,710 certificates for money scrip and 232 certificates for land scrip in 1885. Mr. Roger Goulet of St. Boniface, "an old and well tried servant of the public"[38] served on this and other commissions until 1887, enumerating and evaluating claims and issuing scrip accordingly.[39] In these three years land scrip for 61,020 acres and money scrip to the amount of $663,474 was issued to a total of 3,446 persons claiming entitlement.[40]

Dominion policy as regards Métis claims developed further. An adjustment was necessary to accommodate Métis children who could have claimed an allotment under section 31 of the *Manitoba Act* but who did not press a claim until the land reserve of 1,400,000 acres was distributed. These received $240 in scrip redeemable in Dominion Lands.[41] The Department of the Interior reported in 1896:

> there are still a number of half-breeds to be dealt with where the Indian title has yet to be extinguished. Most of these are probably living at Lesser Slave Lake, Peace River and Athabasca; there are also some at different Hudson's Bay Company's posts along the MacKenzie River and the route to the Hudson's Bay, also along the Hudson's Bay itself.[42]

The commissioner of Dominion Lands went on to recommend that the Métis in these remote areas "should be given an opportunity of taking treaty." They would, he added, "be far better off in treaty" than with scrip.[43]

In 1899 the *Dominion Lands Act* was further amended to authorize the governor in council to deal generally with "claims of half-breeds arising out of the extinguishment of the Indian title."[44] An order in council invited claims from Métis born in the NWT between 15 July 1870 and 31 December 1885. The issuance of some 1,800 certificates of money scrip and 492 certificates of land scrip under the authority of this order prompted the deputy minister of the Interior to write that "the investigation and settlement of all claims arising out of the extinguishment of the Indian title in Manitoba and the North-West Territories" was within sight. "The claims in question" he observed "should have been wiped out sixteen years ago."[45] As late as 1924-1925 further orders in council were issued concerning "extinguishment of the Indian Title of Halfbreeds" in the Mackenzie River district.[46]

The legal status of Métis claims had not been definitively concluded. Language used by Dominion officials in reference to the Métis claims is often imprecise. For example, Prime Minister Macdonald — then defending his own role as minister of the Interior in the years leading up to the North-West Rebellion of 1885 and speaking shortly before the arraignment of Louis Riel on a charge of high treason — stated the original *Manitoba Act* reserve of 1,400,000 acres was founded upon pragmatism:

> whether they had any right to those lands or not was not so much the question as it was a question of policy to make an arrangement with the inhabitants of that Province ... in order to introduce law and order there and assert the sovereignty of the Dominion.[47]

The phrase "extinguishment of the Indian title" he argued "was an incorrect one." But he himself fell into the imprecision of language which other Dominion officials were unable to avoid. "The Indian title of the half-breed heads of families" he continued "was extinguished under an Act passed in 1874 (37 Vict. c.20) by issuing scrip for $160 to each."[48]

Surveys and Land Registration

The Dominion undertook an extensive survey of the lands within its jurisdiction in order to ensure orderly settlement activity. Borrowed from the United States, the system of survey utilized was approved in 1871 and codified by the *Dominion Lands Act* of 1872.[49] The essential unit of the survey was the township. The township was a square measuring six miles on each side, divided into thirty-six sections. Each section, of one square mile, contained 640 acres and was further subdivided into quarter sections of 160 acres. Remarkable accuracy was achieved through important modifications of the United States system: the solar compass was added to the magnetic compass as a survey instrument and the contract system of hiring surveyors was partially replaced through recruitment of highly trained surveyors by the civil service.

The land survey system which the Dominion sought to extend across its lands threatened traditional river lot holdings along the banks of the Red and Assiniboine Rivers in Manitoba and the Saskatchewan Rivers in the NWT. A celebrated image of the grievance presented occurred in 1869 when Louis Riel placed his foot upon the chain of a Dominion survey party which was dividing a common at the rear of a river lot some two miles from Red River. The Canadian historian who best described this incident concluded that "the township survey proved to be a direct cause of that general feeling of insecurity" which brought a provisional government in 1869-1870 and "open rebellion" in 1885.[50] This is an unfortunate aspect of an otherwise outstanding Dominion activity.

Until 1880 the surveys were extended first through block surveys — measurement of the boundaries of blocks containing four townships, then through subdivision surveys — dividing up the land within the outlines of each block into sections and quarter sections, laying off the road allowances and filling in the topographical details. In 1880 the block surveys were expanded so that each block contained sixteen townships. An intermediate level of survey, the township outline survey, was then introduced. Surveyors employed with the civil service performed the block and most of the township outline surveys as these demanded the highest degree of accuracy, while contract surveyors performed the subdivision surveys and, occasionally, alternative township outline surveys. To ensure accuracy, inspection surveys were established. The limits of error allowed were a foot and a half in open prairie and two feet in woodland. After some experimentation the optimum method of inspection was found to be a resurvey in the field of a part of the contractor's survey and an examination and comparison in the surveys office of surveyor's plans and field notes.

When the original survey plan of each township was finally accepted it was copied and distributed to Dominion Lands offices as required. By 1883, 1,221 townships containing over 27 million acres were completely surveyed into sections and quarter sections. Of these, 1,059 lay along the Canadian Pacific Railway (CPR) line "including its land belt, and extending beyond it, to an average depth of nearly 50 miles on either side" and the remaining 162 townships were in the vicinity of the principal settlements.[51] In addition to these completely surveyed townships the outline boundaries of an additional 1,360 townships had been surveyed. When the ceremonial last spike of the CPR was driven in 1885, the Dominion Lands surveyors had largely surveyed, in advance of settlement the immediately accessible arable land west of the principal meridian.

While the observation has been made that it was the regular, grid-pattern survey which gave a distinctive pattern to the Canadian prairies[52] it was in part the reservation of road allowances which gave definition to the boundaries of the grid. Road allowances of one chain and fifty links in width (ninety feet) were initially measured between all townships and sections. This was later considered extravagant and in 1881 the road allowance was reduced to one chain (sixty-six feet) in width; and two of the roads crossing each township from east to west were dispensed with:

> By this the quantity of land taken up by roads was lessened to an extent that would amount for the cultivable portion of the North-West to about four millions of acres, and the cost of the survey diminished by the saving, throughout the whole territory, of that for measurement of the two roads.[53]

As the surveys commenced in Manitoba and then proceeded westward, the significance of this shift is seen most clearly today in Alberta and Saskatchewan.

Road allowances, together with the "old trails" which existed prior to the survey, were viewed as public roads and were transferred after survey to the responsible provincial or territorial government.[54] Due to regional topography it was occasionally necessary for the public roads when built to deviate from the course of road allowances as originally laid out. This was facilitated by an order in council in 1907 which provided that every homestead entry and every lease or sale of Dominion Lands in Manitoba, Saskatchewan and Alberta was made subject to the right of the province to take for road purposes, without compensation, up to 2.5 percent of the surface area. Similar orders were directed to the Railway Belt and Peace River Block of British Columbia.[55]

Successful introduction of the Torrens land registration system by the Dominion was made possible by the accuracy of the original surveys and also by the careful collection and preservation of survey plans. Amendment of the *Dominion Lands Act* of 1874 made collection of original survey records imperative and introduced voluntary registration of assignments.[56] These initiatives were followed in 1875 by amendment of the *North-West Territories Act* to allow for appointment of a registrar of deeds. The first registrar, Mr. William James Scott, was appointed in October 1876.[57] The order appointing him required his office to be kept in Battleford and this presented problems when, under the 1879 "Registration of Titles Ordinance" adopted by the lieutenant-governor in council for the NWT, registration of instruments affecting property became mandatory.[58] Parties outside of Manitoba or British Columbia then had to travel to Battleford in order to deal with their property, and their complaints resulted in amendment of the *North-West Territories Act* in 1880 to provide for the establishment of additional registration districts and the appointment of district registrars. Four additional districts were established in that year — Turtle Mountain, Little Saskatchewan, Touchwood Hills and Prince Albert.[59]

The general scheme of land disposition to the HBC and to various railway companies involved the grant of land, the issue of a patent for the grant and the registration of that patent in the Torrens system so that a certificate of title could be created. In 1888, to reduce the clerical labour involved in issuing letters patent to these parties, an amendment to the *Territories Real Property Act* allowed the minister of the Interior to notify the registrar in writing of lands granted.[60] The registrar was authorized to deal with the notification as if it were letters patent, thereby allowing a certificate of title to be created without formal issuance of letters patent.

The Torrens system was introduced effective 1 January 1887, through the *Territories Real Property Act*, modified by amendments to the act and then, through the *Land Titles Act* of 1894, formulated in language which is in many respects the same as that used in modern statutes.[61] Documents registered under the pre-Torrens registration systems were brought forward into the Torrens system.[62] The Torrens land registration system operated only upon lands for which a patent from the Crown had been issued and the exclusion of lands held by the Crown in right of Canada was continued when Alberta and Saskatchewan were formed as provinces in 1905.

The Dominion was slow to resolve the outstanding question of how to fit river lots into the township survey system. River lots were surveyed but acceptance of the survey was delayed pending resolution of the issue. In some cases this had the effect of preventing land holders from dealing with their property in a manner which would be recognized in the land registration system. It did not prevent them from transferring their interests. It prevented the creation of a legally acceptable record of the transfer. This was a source of irritation to the white settlers as well as the Métis. It became a serious problem when, after several unrecorded transfers of all or part of a property, it was virtually impossible to ascertain legal ownership. It became a particularly acute problem in towns. The principal river lot settlements were finally surveyed as such. Return of these plans enabled the owners of property to claim the benefit of the land registration system. *Bona* *fide* settlers who claimed river lot settlement in an area which was not surveyed as such were accommodated by homestead entry in whole or fractional legal subdivisions which generally made up the boundaries of the lot.

Hudson's Bay Company Lands

The *Dominion Lands Act* of 1872 provided that in every fifth surveyed township the whole of sections 8 and 26 were to be designated HBC lands, while in all other townships the whole of section 8 and three-quarters of section 26 were to be so designated. These provisions arose from the terms and conditions upon which the HBC surrendered its chartered property to the imperial government.

With respect to land, the deed of surrender allowed the HBC to retain the posts which it actually occupied and to select, within twelve months of the surrender, a block of land adjoining each post provided that the aggregate acreage of the adjoining blocks did not exceed 50,000 acres.[63] The HBC also received the right to claim, within fifty years of the surrender, grants of 5 percent of the Crown land available for settlement in the fertile belt. The fertile belt was defined by the United States boundary, the North Saskatchewan River, the eastern boundary of the Rocky Mountains and the Lake Winnipeg-Lake of the Woods water system.

The deed further provided that the lands to be granted, amounting in total to some seven million acres, were to be determined by lot; but the HBC agreed that an equitable distribution could be achieved if the land entitlement was allocated within each surveyed township in the fertile belt. The reservation of sections 8 and 26 was designed to satisfy the HBC's entitlement, though some variance from this distribution was negotiated to allow for Crown grants to satisfy other objectives and to account for settlement in advance of survey. By 1920, when the fifty-year period for selection expired, some acreage remained to be allocated to the HBC. A negotiated settlement was obtained by 1924 and, as a result, 6,639,059 acres of Crown land was allocated to the HBC in satisfaction of its entitlement to 5 percent of the lands within the fertile belt.[64] This land included all mines and minerals except precious metals, which remained vested in the Crown through the operation of Crown prerogative.[65]

School Lands

School lands were reserved as an educational endowment under the provisions of the *Dominion Lands Act* of 1872. Sections 11 and 29 in each surveyed township were set apart as school lands and were not subject to ordinary purchase or homestead entry. Instead, the lands were disposed of by auction or by lease in a manner which generated the greatest revenue which might reasonably be expected. All of the revenue derived from these dispositions, less the cost of administration, was referred to as the School Endowment Fund and was invested in Dominion securities. The revenue of this investment was distributed to provincial and territorial officials for the support of schools within their jurisdiction.[66] Since the object of the administration of school lands was the generation of revenue the lands were generally held until other lands in the surrounding area were settled so that the value of the school lands was enhanced.

Sales of school lands in Manitoba in the late 1880s revealed that some of the school lands had been taken up by settlers. This situation resulted in legislation which allowed the minister to grant homestead entry to named individuals who were in *bona fide* occupation of school lands prior to 1880, or to those persons who proved that they had *bona fide* settled and improved school lands prior to survey.[67] In each case an area equivalent to the school land settled upon was set aside as school land elsewhere so that the endowment fund did not suffer a loss of revenue. Those who did not avail themselves of the opportunity of acquiring a homestead in this manner were ejected.

School lands were administered either under regulations specifically directed to school lands or under regulations of general application extended to school lands. Leasing was viewed as a good means of acquiring revenue before the outright sale of the land, and steps were taken to ensure that the lessee did not commit waste. A very extensive set of regulations relating to the lease of school lands was developed. Although the administration of these lands was a subject of debate within the provinces, the royal commissions of 1930 reported that no fault could be found with the federal administration. Indeed, after 1930 the provinces were required by the terms of the transfer agreements to administer the lands and the fund in accordance with the provisions of the *Dominion Lands Act*.[68]

Railway Subsidies

Between 1881 and 1894 grants of land were used to encourage the construction of the CPR and of numerous smaller railways, often referred to as colonization railways. Some thirty-two million acres of Dominion Lands were alienated through the railway land grant system in this period, an area roughly equivalent in size to that of England.[69] All of these alienations were in fee simple. In addition to the large land bounty, railways received lands for a right of way, stations and necessary works.

The land grant system adopted was a modification of that utilized in the United States, where "statutes enacted between 1850 and 1871 authorized subsidies to the railroads of more than 150 million acres of federal land."[70] The most significant Canadian modification was the indemnity provision applied to each of the land grants commencing with the CPR grant whereby the railway interests were assured that railway land grants would be comprised only of land that was "fairly fit for settlement."

Regulations adopted to govern the form and location of the CPR main line grant went through "a truly bewildering variety of vicissitudes"[71] before these features were finally settled by the *Canadian Pacific Railway Act* of 1881. The earliest regulations were those of 1871 relating to public lands in Manitoba. These allowed the governor in council to withdraw from the free homestead system, but subject to then existing rights, three full townships on each side of the line finally sanctioned for the Inter-Oceanic Railway.

This aspect of the 1871 regulations was superceded by section 105 of the *Dominion Lands Act* of 1872 which authorized the governor in council to withdraw from the operation of the act "land to such extent as may be required for railway purposes." The first reservation under this authority was established on 26 December 1874, and consisted of "all lands within twenty miles on each side of the line then surveyed" together with a similar district west of Fort Pelly.[72] On 28 February 1876, the existing reservation was extended from Fort Pelly to a point twenty miles west of the mouth of the Battle River, and on 22 April 1876, the reserve was further extended from Battle River to Jasper House in the Yellowhead Pass of the Rocky Mountains.

The reservation of 1874 was motivated by "a disposition manifested on the part of settlers going into the Province of Manitoba to squat upon lands along the route."[73] The extensions of 1876 were also directed to the purpose of protecting available Dominion Lands from speculative settlement in advance of survey. The reservation ran through the fertile parkland region of the plains and the practical effect was to inhibit *bona fide* settlement in this area. It is the earliest example of a conflict between the settlement and the railway elements of Dominion Lands policy. The reserves came under the most criticism in Manitoba, where settlement in the 1870s was concentrated. On 25 February 1875, just two months after the initial reservation was established, six townships within the reserve were opened to entry by homestead settlers. In November of 1877 the entire reserve in Manitoba was opened to a rather limited form of settlement by purchasers with sufficient means to pay one dollar per acre in cash, in advance. The cash payment was forfeited if the purchaser did not begin actual cultivation within one year of the purchase.[74]

Initially, then, the reservations for railway purposes consisted of all land within twenty miles of the projected CPR line, which was from Winnipeg to the Yellowhead Pass near Jasper. In July of 1879 new regulations were established which introduced a reservation extending for 110 miles on each side of this line, though not all of the land was reserved for railway purposes. The lands within the reserve were divided into five belts, named belts A to E depending upon their distance from the line. Lands in belt A, within 5 miles of the line, were to be held exclusively for sale. Lands within belts B through E were divided in a distinct checkerboard pattern between railway lands, the odd-numbered sections, and homestead or pre-emption lands, the even-numbered sections. The price set for railway and pre-emption lands diminished with distance from the line. The regulations of July 1879 were replaced by regulations of October 1879 which established a similar regime except that lands in belt A were not reserved exclusively for sale but were opened in part to entry for homesteads and pre-emptions.

These regulations were significant because they opened lands along the projected line in the parkland region to settlement by homestead and demonstrated a desire to balance the competing elements within land use policy. Within the first year of operation 1,154,072 acres were disposed of. This "only fell short of equalling the entire extent homesteaded, pre-empted and sold in Manitoba and the Territories during the four preceding years by some 245,000 acres."[75]

The *Canadian Pacific Railway Act* of 1881 approved and ratified a contract between the government and the company. The contract itself was set out in a schedule to the act. Clause 9 obligated the government to grant a subsidy of twenty-five million acres to the CPR in partial consideration of the completion and operation of the railway.[76] Clause 11 governed the location of the subsidy and the ability of the company to select indemnity lands:

> 11. The grant of land hereby agreed to be made to the Company, shall be made in alternate sections of 640 acres each, extending back 24 miles deep, on each side of the railway, from Winnipeg to Jasper House, in so far as such lands shall be vested in the Government — the Company receiving the sections bearing uneven numbers. But should any of such sections consist in a material degree of land not fairly fit for settlement, the Company shall not be obliged to receive them as part of such grant; and the deficiency ... shall be made up from other portions in the tract known as the fertile belt ... or elsewhere at the option of the Company, by the grant therein of similar alternate sections ... the conditions hereinbefore stated as to lands not fairly fit for settlement to be applicable to such additional grants. And the Company may with the consent of the Government, select in the North-West Territories any tract or tracts of land not taken up as a means of supplying or partially supplying such deficiency.[77]

In 1881 the CPR main line was still projected to run through the Yellowhead Pass. In 1882 the route through the Yellowhead Pass was abandoned in favour of a route through the southern Kicking Horse Pass, near Banff.[78]

The decision to change the actual route of the CPR main line has been the subject of considerable analysis by historians.[79] The location of the main line through the drier regions south of the parkland — including the area referred to as Palliser's Triangle — had significant implications for settlement. Settlement, of course, was dependent upon the railway to move persons and goods. According to Dominion officials, settlement along the actual main line:

> could be justified partly on the ground that settlers were already moving directly west from southern Manitoba and partly by the evidence of John Macoun, a recognized agricultural expert, as to the agricultural possibilities of the southern region, which earlier surveys, such as those of Palliser and Henry Youle Hind, had dismissed as hopelessly arid for intensive cultivation.[80]

The pattern for settlement along the main line was fixed in May of 1881, when regulations for the disposal of agricultural lands reserved the even-numbered sections within twenty-four miles of each side of the main line exclusively for homesteads and pre-emptions.

This was a transition policy of short duration for in December of 1881 new regulations, known in short form as the "Dominion Lands Regulations," were issued.[81] The broad pattern of land disposition established in these regulations proved to be enduring. The "Dominion Lands Regulations" reserved the even-numbered sections in all surveyed Dominion Lands exclusively for homestead and pre-emption, subject to the authority of the minister of the Interior or the governor in council to withdraw lands for other purposes. The odd-numbered sections within twenty-four miles of the CPR main line were reserved for the railway. The odd-numbered sections outside of this area were open to sale at a fixed price per acre, subject always to the authority of the governor in council to deal with them in another way.

The ability of the governor in council to withdraw lands from sale or settlement anticipated the selection of indemnity lands by the CPR, and the vote of railway land subsidies in addition to the main line subsidy for the CPR. When the "Dominion Lands Regulations" were consolidated in 1889, only the odd-numbered sections which had not been reserved for or granted to a railway company were open for sale.

The operation of the land grant system for the individual railway companies which received land subsidies between 1884 and 1894 was similar to that for the initial subsidy to the CPR except that the contract between the HBC and the government was not set out in authorizing legislation. Rather, Parliament would enact legislation chartering the company and authorizing a contract which provided for the grant of a subsidy in consideration of the construction and operation of a line and works.[82] The government then executed a contract with the individual company involved. The size of the subsidy voted by Parliament varied but was most often 6,400 acres per mile of line constructed. Each subsidy was subject to an indemnity provision similar to that extended to the CPR.

The indemnity provision in the railway land grants gave rise to a practice which was the greatest example of conflict between settlement and railway construction. In order that the individual companies could select sufficient lands "fairly fit for settlement" to satisfy their subsidy entitlement, the Dominion reserved from sale and settlement the odd-numbered sections in extensive tracts of Dominion Lands. Reservation of subsidies in even-numbered sections or blocks occupying all or part of a township were also authorized from time to time. The acreage reserved exceeded the subsidy acreage. Railways were slow to select their subsidy lands from the land reservations established for this purpose. Many odd-numbered sections remained closed to settlement for ten or twenty years and "it was not until 1908 that outstanding railway land grants were finally liquidated and the remaining odd-numbered sections made available for homesteads."[83] The general delay in selecting land subsidies meant that by the time the land grant system was abandoned in 1894 "the truth was that the odd-numbered sections of agricultural lands 'fairly fit for settlement' had practically been exhausted except in sub-humid areas which the railway companies were unwilling to accept."[84] According to Chester Martin, when the reserves were finally liquidated "nearly half the agricultural land then available in Western Canada" passed into the control of the various railway companies or their assignees.[85]

As it developed, the line of one company might pass through the area reserved for the subsidy of another. The inevitable result was that the subsidy reservations became separated from the location of the railway line to which they related. This separation also operated to the detriment of the theory on which the subsidy was based, that is, that the railway would sell its subsidy lands quickly to encourage settlement and, therefore, the expansion of traffic on its line.

It should be noted that the authorizing legislation from 1884 to 1894 invariably provided that patent for the subsidy lands was not to issue from the Crown until the company or its assignee had paid the costs of survey and incidental expenses. This allowed the companies to resist provincial taxation on their interest in selected but unpatented lands by virtue of section 125 of the *British North America Act*. In *The Calgary and Edmonton Railway Company v. The Attorney General of Alberta*, however, the Supreme Court of Canada rejected the railway argument that it was not liable to assessment for its interest in the land until patent was issued.[86] The case involved a quarter section of land which was part of a railway subsidy given in 1891. In 1902 the railway company issued a deed for some of the land to an assignee and the assignee was assessed for provincial taxes in Alberta in 1906. The court held that the selected but unpatented land was not exempted by section 125 since "the whole beneficial interest having passed to the company and the bare legal estate remaining in the Crown the land no longer can be said to be land belonging to Canada within the meaning of the section."[87] Contemporary observers recognized that the principle of the decision extended beyond railway land grants and upheld "provincial taxation of homestead and pre-emption interests."[88]

The end of the subsidy grants did not result in an end to railway construction. Indeed, construction of the Canadian Northern and the Grand Trunk Pacific lines was essential to the great expansion of settlement which occurred after 1900. This expansion, however, was assisted by government guarantees of corporate debt. When the subsidy system ended, railways acquired property for a right of way and works by purchase or compulsory acquisition under the *Railway Act*.[89] This act allowed the line of one railway to run through the subsidy lands of another, a virtual necessity given the extensive subsidies which had been established. The railways provided, in many instances, expensive duplication of service and intense competition finally compelled the Dominion to amalgamate Canadian Northern and Grand Trunk Pacific as Canadian National.[90]

The era of railway subsidies as it related to Dominion Lands policy may be divided into two major time periods. The first concludes in 1894 and is marked by the use of land grants as subsidies in aid of construction. This period saw the construction of the CPR main line and several important branch lines by the CPR or by other railway companies. This period cast a long shadow, since land reservations established to enable the railways to select indemnity lands were not finally removed until 1908. The second period is marked by the completion of two additional transcontinental railways, the Canadian Northern and the Grand Trunk Pacific, and by competition and duplication of service between the various lines. Canadian Northern grew through absorption of some of the smaller colonization railways which had received land grants. The greatest increase in settlement took place after 1894 and the extension of rail communication throughout

Dominion Lands was essential to the expansion of settlement and the creation of economic activity.

Settlement

Introduction

In Dominion Lands policy the construction of railways was intended to facilitate the rapid expansion of settlement throughout the west. The central means by which settlement was encouraged was the offer of a homestead, a free grant of 160 acres of land to anyone willing to reside upon the land and cultivate it. Affiliated with the homestead was the pre-emption, an opportunity to acquire an additional 160 acres offered from 1871 to 1890 and again from 1908 to 1918. Colonization companies were called upon for a brief period commencing in 1881, to assist in placing settlers upon the land. Military bounty was offered to militia on active service in Manitoba and the NWT and to Canadian volunteers for service in the Boer War. Similar grants were offered to the North West Mounted Police (NWMP). At the conclusion of World War I (1914-1918) an extensive policy of soldier settlement supported by government loans was put in place. By 1928 over fifty-six million acres in the three prairie provinces had been alienated through homesteads, including soldier grants; and an additional fifteen million acres was disposed of under pre-emption and various special grants.[91] By contrast, only twenty-seven million acres of land had been sold by the HBC and the various railway interests to 1928.

The rate of expansion of settlement increased dramatically after 1900:

> The total area under cultivation in 1890, although upwards of a million acres, would be represented on the map of the province of Manitoba by the tier of townships along the international boundary line.[92]

In the period 1874 to 1900 homestead entries reached a high of 7,383 in 1882, at the height of a period referred to as "the boom" brought about by construction of the CPR main line. This temporary increase was exceptional since homestead entries only occasionally exceeded four thousand annually and up to one half of the entries made were abandoned. The period 1900 to 1914, on the other hand, saw a record 44,479 homestead entries in 1911. Entries in this period rarely fell below thirty thousand annually.[93]

The rapid increase in the rate of settlement at the turn of the century has led to characterization of the early period as primarily relating to railway land grants and of the latter period as primarily relating to immigration and settlement; and occasionally to the observation that the early period was distinguished by "the absence of any genuine homestead philosophy."[94] It is true that the railway land grants exceeded the homestead grants by a considerable margin during the early period, but this should not overshadow the development of the homestead laws during the same period. Fundamental questions with respect to the form of homestead grants were faced and answered before the great increase of settlement began and the form of the land use laws in the later period can be traced directly to experience gained in the earlier period.

Original Settlement

When the Dominion acquired Rupert's Land and the NWT it assumed control of lands which in some small areas had been the scene of settlement activities for decades. This was especially so at Red River where Lord Selkirk had attempted to establish a colony in 1812. Accommodation of settled areas within Manitoba was addressed by section 32 of the *Manitoba Act* of 1870.[95] Those who had received a grant of an estate from the HBC, or who could assert title through occupancy under license of the company, were to have their interest converted into freehold by a grant from the Crown. Rights of common and hay were to be commuted by similar grants as were those who were simply in peaceable possession when the Dominion acquired the land.

For those who had a river lot which was converted into freehold by a grant from the Crown, a question arose regarding the commutation of rights of common and hay long associated with the river lot landholding.[96] It was found that the townships reserved to satisfy Métis claims under section 31 of the *Manitoba Act* "as a rule ... abut against the rear of the settled lots."[97] This made commutation through land grants difficult because "compensation in lands cannot be awarded in the vicinity of such settled lots."[98] A board of inquiry appointed by the lieutenant governor reported that the rights, "although more or less universally claimed throughout Manitoba, vary very much as to their character and as to the extent and the manner in which they are held and enjoyed."[99] The method for commutation of rights of common and hay was set out in 1873. As a result, those who claimed a right of cutting hay in the outer two miles at the rear of their river lot received scrip in place of their rights. In some limited circumstances, it was possible to claim an extension of the river lot to include the outer two miles — even though this meant withdrawing those two miles from the 1.4 million acre reserve and extending that reserve proportionally back away from the river.

There was a certain overlap between the provisions of section 32 of the *Manitoba Act*, and those of section 31 which purported to reserve 1.4 million acres for Métis children. Métis were in a position to claim under both, particularly since the initial Dominion actions under section 31 purported to extend to all Métis residents. This prompted claims by Caucasian settlers of long standing for treatment equal to that afforded the Métis.

In 1873 Parliament adopted legislation which authorized the reservation of forty-nine thousand acres of land in Manitoba to be distributed in grants of not more than 140 acres to "the original white settlers who came into the Red River country under the auspices of Lord Selkirk" between 1813 and 1835, and to the children of those settlers.[100] The governor in council initially estimated that some 300 or 350 persons would receive "the privilege of the free grant" which the Métis had received, though the entitlement to a free grant was subsequently converted into an entitlement to receive 160 acres in scrip which could be received in payment for Dominion Lands.[101] Justification for the conversion was set out in the legislation which accomplished it — a census showed that over 500 persons could claim a share of the reserve, reducing the individual allotment from 140 acres to

92.4 acres. Scrip would ensure that those eligible received a share roughly equal to the shares received by Métis under section 31 of the *Manitoba Act*. Location of scrip also allowed for greater flexibility in meeting the individual circumstances of the settlers.

This amending legislation also broadened the class of those receiving a benefit to include original Caucasian settlers who also settled at an early date, but not under the auspices of Lord Selkirk, and their children. This enabled Orkneymen and those who came from Lower or Upper Canada or the United States to receive scrip. Entitlement was further extended in 1876 when the minister of Justice rendered an opinion that all lineal descendants of the original settlers, not just their children, could claim.[102]

The extension of these privileges to the NWT was provided for by the *Dominion Lands Act* of 1879.[103] As noted above, a scrip distribution for Métis was authorized in the spring of 1885. Claims of original settlers and their children were also dealt with under an order in council. Generally, each was to receive scrip redeemable in Dominion Lands, enabling the purchase or location of lands which they occupied.[104]

Homesteads

The immediate background to the homestead policy in Canada was the passage of homestead laws by the United States Congress in 1862. If Canada were to compete for settlers with the United States "nothing short of an equally generous measure would suffice."[105] American law, therefore, determined the basic pattern of Canadian law; but not its detail, since very considerable refinement was necessary to provide for unique features in the Canadian environment. In Canada, the Dominion offered a quarter section of land, 160 acres, to those who were prepared to live on and cultivate the land during a qualifying period of time — initially five years, but soon reduced to three years in the ordinary course.

The homestead process began with entry, which was a term used to refer to the filing in a Dominion Lands office of a claim to a particular parcel of land. Approved copies of survey plans were kept in the lands office, and entry enabled a record to be kept of the occupied lands in each township. It also prevented settlement on areas allocated as HBC or school lands. Individuals who had settled in advance of the survey were allowed to retain their property provided an entry was filed within a defined period of time after completion of the survey.

Eligibility for entry was determined by age, status, gender and naturalization. In 1874 the initial age requirement of twenty-one was reduced to eighteen years. The status requirement allowed a younger person who was already the head of a family to make entry. In 1876 the sex of the entrant became germane. From this point on women were eligible only if they were the sole head of a family; although in 1919, widows of veterans who could have claimed a right of entry were allowed to make that entry. Naturalization became significant in 1908 when it became necessary to be, or to declare an intention to be, a British subject.

Entry resulted in the assumption of homestead duties by the settler. Residence and cultivation for a fixed period of time, usually three years, were the main features of these duties. The regulations which defined these details are set out at length in Appendix II. Residence was intended to discourage speculative entry. Cultivation was intended to accomplish development. The need for cultivation and residence over a period of three years was intended to discourage all but the genuine settler from obtaining a homestead. Abandonment or failure to comply with either of these duties could result in forfeiture of the entry. Over time, as the Dominion developed its homestead policy, the residence and cultivation duties were defined in detail to discourage speculation and to reduce disputes concerning compliance.

The concept of perfecting an entry was also introduced. This required assumption of the homestead duties within a fixed period of time. Failure to perfect could result in forfeiture of the entry.

The development of homestead duties reflects an increasing maturity in the agricultural frontier. A desire of settlers to reside together in villages, with obvious social benefits, brought about a special provision which allowed residence on the homestead to be satisfied by residence in the community. Communal and cooperative farming techniques required similar adjustment of the duties. The emergence of a second generation of homesteaders was reflected in the revision of residence requirements to allow a homestead entrant to satisfy the requirements by residing with parents in the vicinity of the homestead. In time the regulations required the child's homestead to be within a fixed radius of the parents' settlement. Further revision enabled reservation of a quarter section of choice land for one year for entry by a child who would then have turned the full age of eighteen years.

If the homestead duties were discharged the entrant could apply for the issuance of letters patent. In order to apply it was necessary to have attained the legal status of a British subject or to fall within defined exceptions to the requirement of naturalization. Although the homestead duties as defined meant that letters patent did not usually issue until at least three years after entry, it was possible to purchase the homestead in a shorter period after compliance with the initial duties.

Entry did not involve the acquisition by the settler of any legal or equitable estate in the homestead property. This meant that the homestead property was generally shielded from civil execution prior to patent; although loans taken out by the settler after entry, but before discharge of the homestead duties and issuance of letters patent, could be recorded and these became first charges on the issued patents.[106] Seed grain advances were similarly treated. The case law of the period confirmed that lands entered as a homestead were not subject to execution of judgments against the lands prior to recommendation for or issuance of the patent.[107] The intent of the *Dominion Lands Act* was to ensure that if the settler failed to discharge the homestead duties, the land would become available for entry by another settler — free of any charges arising from the debts of the first entrant which might otherwise have encumbered the land.

The ordinary rule was that a settler could not make entry for more than one homestead. In 1883 the right to make a second homestead entry was extended. Second homestead enabled a person who had obtained a quarter section through homestead (and perhaps a second quarter section through pre-emption) to repeat homestead (and pre-emption) entry and so to obtain up to a full section of land in total. Parliament soon recognized that second homestead entry reduced land available for beneficial settlement and encouraged speculative entries; the right was prospectively withdrawn by amendment to the *Dominion Lands Act* in 1886. A more restricted right of second homestead entry was re-established in 1908, but was extended only to persons who had obtained an entitlement to patent through homestead prior to 1889. The details of the second homestead policies are also set out in Appendix II.

Widespread crop failures after World War I prompted a new initiative akin to, but distinct from, the defined rights of second homestead discussed above. Under laws intended to relieve settlers suffering crop failure, settlers who had obtained letters patent by homestead in a defined geographical area but who were no longer owners of the farm "because of circumstances not favourable to successful agriculture"[108] could be granted the right to make another homestead entry.

The strains imposed on Canadian society by World War I are reflected in dramatic variations in homestead policy.[109] These variations were largely imposed under the authority of the *War Measures Act*[110] rather than the *Dominion Lands Act*. Eligibility for entry was restricted in 1916 to British subjects. Right of entry to newly surveyed areas was restricted in 1917 to veterans. Residence and cultivation duties were waived in 1915 for those whose injuries during service made compliance with homestead duties impossible. This was extended in 1917 to pre-emptions and purchased homesteads. The importance of agricultural production to the war effort brought about regulations in 1917 which encouraged young men to become farm labourers. Periods of such labour could be deducted from the residence duties imposed by homestead or pre-emption entry. Additional regulations were issued in the spring of 1918 allowing the lease of lands which were lying idle because the entrant was on military service. Toward the end of the war, large areas were reserved for the exclusive entry of returning veterans; and, when these areas were reopened for entry by the general population, veterans obtained the right to make entry one day in advance of other persons.

Pre-emption

Pre-emption was first offered in the regulations of 1871 governing the public lands in Manitoba. This simply allowed a person who had inhabited and improved public lands to enter up to 160 acres as a pre-emption and thereafter to purchase the lands entered. Compared to later rights of pre-emption, the initial right was unique in that it was not related to the prior exercise of a homestead entry. The initial pre-emption right continued until

1874 when amendment to the *Dominion Lands Act* introduced a pre-emption right distinct from that initially offered in Manitoba.

The pre-emption right introduced in 1874 was extended only to the holder of a homestead entry. The intent of the legislation was to enable a settler to acquire property which was adjacent to the homestead either for the use of his children or for expansion of agricultural activity "should he ever be in a position to so extensively engage in agricultural operations."[111] Pre-emption entitled the homesteader to enter an additional 160 acres adjoining the homestead quarter at the time entry was made for the homestead. Pre-emption entry entitled the homesteader to take possession of the pre-emption, to cultivate it and to receive patent by paying a fixed price for the land after receiving patent for the homestead. At the time it was introduced all unappropriated agricultural lands outside of the belt reserved for the CPR were open to homestead entry and it was thought that a settler without sufficient means to purchase land in the vicinity of the homestead would find all available land settled by the time he was able to expand beyond the homestead.

Pre-emption was popular and it was common for well more than half of those making a homestead entry to also make a pre-emption entry.[112] It was also problematic. Dominion officials argued that the homestead was quite enough for cultivation by one settler or a family given the technology of this early time, and an additional quarter section as a pre-emption was often a burden rather than a security. A settler who had received a patent for the homestead might mortgage that interest in an effort to raise sufficient money to purchase the pre-emption even though it was of no immediate use. As a result, circumstances such as a poor harvest could cause the loss of both homestead and pre-emption.

A systemic problem was created by the decision to place railway land subsidies in alternate sections throughout unappropriated Dominion Lands. Since the railways were slow to select their subsidies and, depending upon the region, slow to market the lands which were selected, over half of the lands in many townships were effectively closed to settlement. In these changed circumstances, pre-emption served to further reduce the land in each township which was available for homestead entry, and so to reduce the density of settlement in each township to an unacceptable level.

To Dominion officials responsible for settlement, much of the demand for pre-emption entry proved to be speculative in nature. Pre-emption could be purchased up to three years after the homestead was patented and could remain unimproved for at least six years after entry. To deal with speculative entries a system of inspection was introduced. Dominion officials visited each settler with a view to determining *bona fides* of the pre-emption entry. Settlers with genuine intentions were given a period longer than three years after patent of the homestead in order to acquire their pre-emption. The time requirements for purchase of a pre-emption were more stringently enforced against those without such genuine intention, and enforcement resulted in cancellation of the pre-emption entry. Some 93 percent of the pre-emptions entered in 1874 were cancelled in this way, as were a very considerable proportion of the pre-emptions entered after 1874.[113]

Difficulties in the pre-emption system resulted in the decision to rescind the right of pre-emption entry after 1885. The effective date for termination was extended to 1887 and was then finally fixed at 1 January 1890.[114] In 1888 a circular was distributed calling upon persons in default to complete the purchase or face cancellation. This circular brought pressure to bear upon Dominion officials from senators and members of Parliament for the region, who represented that "many bona fide settlers whose entries it would be a great hardship to cancel had failed to make application for extension of time for their pre-emption payments."[115] In response to this pressure cancellation of pre-emption through inspection was delayed. Thereafter, extensions were only granted to those who provided a satisfactory reason for non-payment and who were cultivating the homestead.

With the termination of pre-emption entry in 1890, it disappeared as a feature of Dominion Lands policy until being re-introduced in a modified form in 1908. By 1908 the railways had finally been compelled to complete the selection of their land subsidies from the lands reserved for that purpose. Many odd-numbered sections were, therefore, opened to settlement. The reintroduction of pre-emption was made possible by this final satisfaction of the railway subsidies and was motivated by an intention to raise revenues for the ill-fated Hudson's Bay Railway.

By amendment to the *Dominion Lands Act* of 1908 pre-emption was allowed within a defined tract which generally included (but was not limited to) the region of semi-arid lands known as Palliser's Triangle. Within this tract, pre-emption entry was only allowed in a township in which less than eight sections had been accepted by a railway company as a part of its land grant. The irony in this was that the Dominion distributed as agricultural land areas which the railways had passed over in their own selection of lands "fairly fit for settlement."

Pre-emption entry could be made by any person who had obtained or who intended to obtain a contiguous homestead entry. Residence requirements for the pre-emption could be satisfied by residence upon the homestead. Cultivation requirements — fifty acres in addition to the homestead requirements — could also be satisfied on the homestead. Patent for the pre-emption could be obtained when a fixed price for the land had been paid by installments over eight years. These liberal provisions resulted in a great demand for pre-emptions on 1 September 1908, when they came into force. The Dominion Lands agent at Battleford reported that

> For several days the services of the police were required to handle and control the huge crowd awaiting admission.[116]

The agent at Dauphin reported:

> during the first few days it was found necessary to call in the assistance of the homestead inspectors, with some of the forest rangers, to control the great crowd and keep order ... On the first day the crowd was so great that the stairs leading to the [Dominion Lands] office broke down under the press. Fortunately, only one man was hurt, and he only slightly, and he being admitted

> to the office through my private door, with the consent of those waiting in line, secured his entry.[117]

The pre-emption offered in 1908 was cancelled by order in council in 1918, in anticipation of the demand for land to meet the soldier settlement program.

Colonization Companies

The "Dominion Lands Regulations" of 23 December 1881 introduced two plans for sponsored settlement of lands north of the CPR main line. Each plan anticipated a contractual arrangement where a private person, society or corporation would purchase sections in defined tracts of Dominion Lands. These parties would be able to receive a rebate on the purchase price of the lands depending upon the degree of success of their sponsored settlement. The plans varied regarding the terms of payment for the land.

Returns to the House of Commons in 1882 listed applicants for land under each plan.[118] The first plan received the most attention — 251 applications for a total area of 2,295.5 townships. The application for the largest area, 210 townships, was made by the Temperance Colonization Society; but the vast majority of applications involved less than ten townships. The second plan received nine applications involving a total of seventy-eight townships.

Returns in 1883 revealed that some twenty companies had actually contracted with the government, and that 1,252,863 acres were allocated.[119] The Temperance Colonization Society received the largest single allocation — 210,000 acres. The Department of the Interior eventually reported that about three million acres were finally committed under the two plans.[120]

But sponsored settlement failed. Sponsors could not meet their contract obligations when "the boom" period of CPR construction receded after 1885. An order in council in 1886 set out the manner in which the contracts were terminated and the lands returned to the Crown.

Militia and NWMP Bounty

The grant of land in return for service is an ancient practice incorporated into Dominion Lands policy in several instances. By this practice the Dominion sought to encourage enlistment, reward service and foster settlement. It generally achieved the first two of these objectives.

The first application of the practice was in 1871 when officers and men of two battalions of militia then serving in Manitoba were offered a free grant of 160 acres without necessity of residence or cultivation.[121] The terms of service of men in these battalions expired in 1872 and an equivalent offer was authorized in September of that year to encourage recruitment of replacements. The offer was renewed in 1875, to encourage re-enlistment.[122]

The *Dominion Lands Act* of 1872 governed the operation of these grants.[123] Instruments referred to as warrants were issued. A warrant could be redeemed for 160 acres of land or applied as credit toward the purchase of land. The warrants could be freely assigned. The Dominion was obliged to allow assignment because the 1871 offer could not be made good until surveys had been completed. By this time men had been discharged, had assigned their interest in the grant and had left Manitoba. Subsequent offers on the same terms had the same features.

Assignment, though, was speculative in many cases. In 1883 a complete revision of the *Dominion Lands Act* disallowed assignment.[124] To allow for prior assignments the warrants which had been issued were to be considered payable to the bearer.

The NWMP initially received a similar right. The act which established the force, *An Act respecting the Administration of Justice, and for the establishment of a Police Force in the North West Territories*, allowed a free grant of 160 acres to constables or subconstables who successfully completed three years of service.[125] An order in council in 1876 interpreted this statutory provision as authorizing issuance of a warrant which would then be governed by the provisions of the *Dominion Lands Act* relating to the militia bounty.[126]

In 1879 a consolidation of the *North-West Mounted Police Act* extended free grants of 160 acres of land to "any member" of the force enlisting before 1 July 1879, and successfully completing five years of service.[127] The offer was not renewed.

The early policy of distributing free grants to militia and police had concluded by the time of the North-West Rebellion of 1885. The dispatch of militia forces to the region evoked a new popular concern for an adequate reward for services in the line of duty. In July Parliament adopted *An Act to authorize Grants of land to members of the Militia Force lately on active service in the North-West*.[128] This statute attempted to give the militia a grant which was generally equivalent in spirit to the earlier militia grants, but which limited speculative features associated with assignment. Under the act all officers, noncommissioned officers and men serving west of Port Arthur received a free homestead of 320 acres. This was twice the area of the earlier free grants but was a significantly more onerous benefit. The homestead entitlement had to be selected and entered by 1 August 1886, and thereafter patent could only be obtained through compliance with the homestead provisions of the *Dominion Lands Act*. The entitlement could be assigned but the assignee had to be a person eligible to make homestead entry. The assignee also had to assume the obligations of the entitlement. In lieu of the free homestead a man could elect to receive money scrip for eighty dollars redeemable toward the purchase of lands open for sale, or for satisfaction of grazing or hay rents.

These changes in the militia bounty reflected a concern that land dispositions encourage immediate settlement. The primary policy was to encourage settlement and lack of cultivation or residence requirements made the first militia grants unsatisfactory. The limitation period for entry imposed on the later militia grants seemed to resolve the difficulty. Yet many militiamen neither met the limitation nor assigned their right to a person who could. Parliament was left with the option of extending the limitation or refusing to recognize the reward it had authorized. It repeatedly chose the former course of action. The limitation period for entry, initially fixed at 1 August 1886, was extended seven times. Finally, the limitation date of 1 August 1900 was fixed for entry of the militia grants extended in 1885.[129]

South African Veterans

The Boer War drew volunteers and a military unit organized from Canada for service with British forces. Six years after the conclusion of hostilities Parliament authorized a bounty for the South African veterans (SAV) by enacting *An Act to authorize a bounty to Volunteers who served the Crown in South Africa.*[130] The SAV grants, as they came to be known, were similar to the grants extended to the militia in 1885. Changes extended the definition of volunteers to female nurses, an exception to the general rule that women were ineligible for homestead entry. The value of the scrip option was set at $160. The initial limitation for selection and entry of the 320 acre grant was 31 December 1910; but this was also repeatedly extended, until finally being fixed at 1914.[131] Parliament attempted to encourage satisfaction of the bounty in 1912 by making it exchangeable for $500 cash. Despite the final limitation and the cash option, cases arose after 1914 where a person sought to claim an entitlement. To these the governor in council responded positively.[132] Records presented to the Saskatchewan Natural Resources Commission reveal that 7,370 SAV warrants were issued, involving over two million acres of Dominion Lands and Dominion records indicate that approximately one million acres were actually entered in Alberta.[133] Even so, both the Alberta and Saskatchewan Natural Resources Commissions criticized "the policy which the Dominion pursued, of giving away lands to all veterans, irrespective of domicile or settlement intentions."[134]

Soldier Settlement after World War I

A national policy of soldier settlement was introduced toward the end of World War I.[135] The policy was first expressed in the *Soldier Settlement Act* of 1917. A significantly expanded policy was anticipated by an order in council adopted in February of 1919[136] and was confirmed in the *Soldier Settlement Act* of 1919. Under the 1919 act an extensive set of regulations were created to govern land acquisition, loan policy, evaluation of applicants' qualifications and revaluation of property and debt. The Soldier Settlement Board was created to administer the program and its annual reports from 1921 to 1931 contain statistical information which documents the operations of the board throughout Canada.

Dedication of land to an agricultural purpose was a central feature of the soldier settlement program. The intent of Parliament was to assist returning veterans to take up an agricultural way of life; and to thereby strengthen and expand the agricultural fabric of the nation. Speaking to the House of Commons on 17 May 1917, when the bill was first introduced, the minister of the Interior stated:

> We realize that nothing this Parliament can do, whether by way of land grant

> or by financial assistance, adequately compensates those brave lads of ours who have gone from our country and who have been subjected to such terrible hardships. They have acquitted themselves in a manner that has won the admiration of the world. They have gone to the front and done their duty like men, and this offer is meant as some recognition on the part of a grateful country by way of preferential treatment such as has not been held out before to other settlers. If by offering this assistance we can place the soldiers upon the soil and increase our production we shall have accomplished what we have in view.[137]

When the expanded 1919 act was before Parliament the minister reported that "the great purpose of the soldier settlement scheme" was "to make men settlers." Soldier settlement, he said, was "a settlement institution."[138]

The original act of 1917 contained a relatively limited policy with two main features. First, qualified settlers were entitled to make entry for 160 acres of land in addition to the 160 acres which could be entered as a homestead. This was referred to as the "free grant" although the duties attached to it — defined by regulations issued in 1918 — were similar to homestead duties and included residence and cultivation. The exercise of this right was restricted to Dominion Lands, including lands in the Railway Belt and Peace River Block, which had been reserved for that purpose. Beginning in 1918 and continuing until 1921, extensive areas of Dominion Lands in the prairie region were reserved from sale and settlement by ordinary civilians in order to be available for soldier settlement.

The board was also authorized to make loans to qualified settlers. The objectives of the loan program reflect one of the central themes of the soldier settlement program — dedication of land to an agricultural use. Loans could be issued for the purposes of buying land for agricultural purposes, for removing encumbrances on existing agricultural land, for the erection of farm buildings or improvement of agricultural land or for the purchase of stock, machinery and equipment. The act set out the conditions upon which the loans could be made; and, emphasis was upon security for the public funds which were being advanced and upon the qualifications of the applicant. The applicant had to have "the ability to make from the land a fair living for himself and his family."[139] The board was authorized to offer agricultural training courses to settlers, and to offer "training in domestic and household science" for wives and female dependents.[140]

By 1919 unappropriated Dominion Lands within a reasonable distance of marketing facilities were found to be inadequate to meet the projected rate of settlement brought about by "an unexpectedly sudden and seemingly final cessation of actual warfare."[141] The soldier settlement program was expanded in scope in order to meet the surge anticipated by demobilization. The *War Measures Act* was relied upon as authority for this expansion, and new powers of the board were defined by an order in council promulgated in February 1919. The board was authorized to purchase agricultural property in any area of Canada and to sell the land at cost to soldier settlers. The board had become a landholder.

These expanded powers of the Soldier Settlement Board were carried into the *Soldier Settlement Act* of 1919. The board was given extensive powers to acquire agricultural land from private persons or corporations, from provincial governments, from duly surrendered Native lands and from school lands. A statutory power of expropriation was also defined. The earlier provisions of the free grant were continued, as were the loan and agricultural training provisions. An individual's entitlement to the benefits of the act were determined by qualification regulations. Duties attaching to the free grants were set out in land regulations. Details of the secured loans advanced to settlers were set out in loan regulations.

The majority of free grants were entered by 1921, at which time the general land reservations established in 1918 were discontinued (with some exceptions) and the lands within the boundaries of these areas were again opened to sale or entry by ordinary civilians. Under the loan program, the extended terms of mortgages or other security held by the board meant that the operations of the board carried forward well beyond 1930. Today the *Soldier Settlement Act* is unconsolidated but unrepealed.[142]

The board was incapable of alienating mines and minerals in the lands which it acquired because of a prohibition contained in section 57 of the *Soldier Settlement Act*, 1919. Archival records reveal that in 1921 the governor in council sought to amend the loan regulations to allow the board to convey mines and minerals where it had the "intention" to do so and where the grant from the board expressly stated that mines and minerals were not reserved.[143] The order in council was clearly *ultra vires* on two grounds — the order was never published in the *Canada Gazette*, as mandated by the *Act*, and it contravened the statutory provision regarding alienation of minerals. In 1940 an effort to amend the act to effect a similar purpose was defeated in the Senate.[144] Speaking against the bill in the Senate, Senator Meighen — who had introduced the 1919 act to the House of Commons — stated:

> We started out, not to make him an oil operator, but to help him along the hard, wearisome course of farming...[145]

For a limited class of settlers, the mineral situation was addressed by executive action in 1948.[146]

The soldier settlement program was seriously tested by a general decline in wheat and land prices in the years following 1920. This left the board, and the settlers purchasing through the board, in the position of having purchased land at wartime high prices. One result was a significant rate of abandonment which left the board holding land which could not be sold at a price high enough to recover the initial investment in the property. The situation was described in the 1925 annual report of the board:

> The number of abandonments or foreclosures in connection with Soldier Settlement on December 31, 1925, was 6,635 which represents 27 per cent of the settlers who have been granted loans. Of this number 1,789 farms with their stock and equipment have been resold to other farmers and in addition 243 farms have been resold, but the stock and equipment of the settlers have not been disposed of. There are also 107 farms, offers for which have been accepted. This leaves 4,496 farm units which are now in possession of the Board.[147]

Financial pressure on the soldier settlers was reflected in political pressure on the government.[148] In 1927 revaluation of farms was approved in principle and the *Soldier Settlement Act* was amended accordingly. The annual report for 1927 reported:

> With revaluation of their lands authorized, soldier settlers are now awaiting the results of the appraisals which will determine the extent of the reduction of their indebtedness to the Board. Most of these appraisals will not take place until the snow is off the ground in the spring.[149]

Revaluation regulations were issued in 1928. A report on the revaluation procedure, and a summary of the revaluation situation, was included in the 1928 annual report.[150]

That report also included a summary of the operations from its beginning. According to the statistics presented:

> Since the commencement of the board's operations, 31,360 returned soldiers have availed themselves of the privileges of the Soldier Settlement Act. Of these 24,708 were granted loans and 6,652 made soldier grant entries without loans.[151]

The report observed that "after ten years about 24,000 are making their living in agricultural pursuits."[152] Although the board's operations were national in scope, and soldier settlement activity was not restricted to Dominion Lands, the Railway Belt or the Peace River Block, the impact of the soldier settlement program in these areas was nevertheless significant and continued well beyond 1930.

Conclusion

The settlement period in western Canada has entered folklore. Academic study, museums, local histories and contemporary accounts have combined to focus popular attention on a period in Canadian history which introduced multicultural elements to the fabric of Canadian society.[153] The nation changed. The central significance of the homestead in the land use policy throughout the period to 1930 occasionally results in mistaken references to the "Homestead Act" instead of the homestead provisions of the *Dominion Lands Act*.[154] The homestead, of course, was just one of several legislative initiatives intended to foster settlement of the public domain. Settlement took place in a milieu. Forestry policies made wood lots, tree seedlings or cut timber available to the settler and protected the watershed which served irrigation. Coal policies sponsored an industry which provided fuel and seasonal employment. Even conservation of migratory birds assisted in meeting the ends of agriculture. The full range of land use policies — not just the homestead — contributed to the frontier experience.

Forestry

Dominion policy regarding timber resources can be divided into three categories. First in time were measures providing the settler with a source of wood. First in importance for revenues were commercial dispositions, leasing of large tracts of Crown land with a form of royalty on the timber cut in those tracts. First in significance were conservation and watershed management accomplished through creation of extensive forest reserves. These separate initiatives were not always in harmony and this was especially apparent in the disparate manner in which commercial leaseholds and forest reserves were managed.

Parliament saw fit to include in the *Dominion Lands Act* detailed provisions regarding the disposition of timber resources. These provisions of the act applied to Manitoba and the prairie region and were extended to the Railway Belt when this was acquired by the Dominion. Regulations promulgated by the governor in council under the authority of the act parallel the wording of the act in large measure, but also include details of the fees and royalties charged and of the form of lease used. In addition to the *Dominion Lands Act*, policy development over time broadened the statutory base to include separate legislation, and separate delegated legislation, for parks and forest reserves. In time the *Rocky Mountains Park Act*, the *Forest Reserves Act* and the *Forest Reserves and Parks Act* all contained provisions expressing some measure of Dominion policy respecting forests.

Dominion officials anticipated the need for timber by settlers and to this end the *Dominion Lands Act* of 1872 provided that surveyed townships which consisted partly of prairie and partly of timber land were to have the timber land subdivided into wood lots of ten to twenty acres each. The intent was that wood lots would be distributed to each settler making a homestead entry on the basis of one lot per homestead. This did not account for individual requirements — some homestead lands had sufficient wood, while others did not. The *Dominion Lands Act* was therefore amended in 1874 to require the homestead settler to apply for and purchase the wood lot. Practically, this policy applied to the partially wooded townships.

Of course, many prairie townships had very limited timber. To provide for settlement in these areas, early regulations were promulgated which allowed settlers to receive a free permit to cut timber located on unoccupied Dominion Lands. The timber cut was to be for the individual use of the settler, and not for commercial distribution. Regulations were issued for Manitoba in 1873, for the Rainy River area in 1875 and for the NWT in 1878. These permit regulations differed only in small details and were consolidated in 1881.

Wood lots and free permits were intended only for the benefit of the individual settler; settlers who sold the timber which they cut were liable to prosecution. The permit itself was a rudimentary form of resource management which provided Dominion officials with evidence by which to distinguish authorized cutting from unauthorized exploitation.

Forest tree culture was the subject of an extensive evaluation by the Department of the Interior in 1874 and 1875. Officials reviewed experience in the United States and projected that a similar program in Canada would provide windbreaks, fuel and fencing material to settlers on the open prairie and would exert a positive influence on climate and rainfall in the prairie region. The surveyor-general reported in 1875 that

> without a counteracting influence in the shape of practical forestry on a liberal system, the wholesale destruction of natural timber by ordinary

> consumption, by prairie fires, and last, though not least, by sheer extravagance and wanton carelessness, is not at all unlikely in a few years to affect unfavourably the climate of the Province [of Manitoba] as well as the health of the inhabitants.[155]

In accordance with the recommendations made, Parliament amended the *Dominion Lands Act* in 1876 to allow for the entry of up to 160 acres as a claim for forest tree planting. Similar in concept to that of a homestead entry, a forest tree claim had cultivation of trees rather than of cereal crops as defined duties. Patent for the entry would issue after six years provided that defined cultivation and planting requirements were met. Unfortunately this effort to encourage tree farms was introduced at a time of devastating grasshopper infestations in Manitoba. When the *Dominion Lands Act* was consolidated in 1879 allowance was made for extending the cultivation requirements for those whose trees had been destroyed by causes beyond their control. The forest tree culture provisions were not brought forward when the act was again consolidated in 1886, and the program was abandoned.

The Dominion itself then introduced tree nursery stations, first at Indian Head and then also at Sutherland. Seedlings and cuttings, at the rate of five million per year by 1924, were distributed at the cost of transportation and contributed significantly to the development of popular appreciation of the importance of silviculture.[156]

Commercial exploitation of timber on Dominion Lands was regulated through the issuance of licenses and, to a lesser extent, special permits. A licensed area was referred to as a timber limit or berth. From 1872 to 1886 the *Dominion Lands Act* provided that the term of a license was to be twenty-one years. This was reduced to one year in 1886. In either case the license was renewable provided that certain conditions were fulfilled.

These conditions remained substantially unchanged for the entire period to 1930. The operator was required to erect and operate a saw-mill of defined capacity for at least six months of each year, though the minister of the Interior could waive this requirement. The operator was to avoid all unnecessary destruction of timber, to leave uncut trees which were too small for market and to exercise strict and continuous supervision to prevent the origin or spread of fire. Accurate books of account were required as were periodic returns to the minister. A ground rent and bonus were payable in respect of the timber berth while royalty dues were payable on the logs cut. By 1916 the development of urban areas led to the establishment of additional conditions designed to ensure that municipal water supplies were not polluted through timber operations.

In return for these obligations the licensee was entitled to possession of the timber berth and to be vested with all right of property in the timber cut. To enforce these rights the licensee could maintain a trespass action and could seize in replevin timber cut by trespassers, or sue in law to recover damages.

The Crown reserved the right to withdraw from the area of the timber berth any lands required for settlement or for satisfaction of railway subsidies. The Crown also reserved the right to dispose of minerals within the boundaries of the timber berth. The mineral operator was entitled to possess and occupy as much of the berth as was required for works and access roads, but was required in turn to compensate the timber operator for the value of the timber cut within the timber berth.

When regulations governing the issuance of timber licenses were promulgated in 1883 these applied only to Dominion Lands in Manitoba and the NWT. In 1884 these regulations were extended westward into the widely differing forests of the Railway Belt. After a period of experimentation the Dominion recognized that the Railway Belt had to be covered by regulations which recognized the different forests. A boundary was established between the coastal forests and the interior forests. This distinction was important in the regulatory sense because it determined the rental cost of the lease, the costs of lease acquisition and the royalties charged on timber cut within the leasehold.

In addition to the commercial licenses, special permits were issued to provide for a wide variety of needs. Steamboats operated on major rivers at this time and operators required timber for fuel and for construction of boats or barges. Railways required ties. Coal mines required beams for support of shafts, slopes and tunnels. Permits also allowed urban dwellers to acquire cordwood for fuel. The Dominion derived revenues from the issuance of special permits primarily through the collection of royalty dues. To assist settlers in remote regions permits were issued to owners of portable mills for an area of up to one square mile.

The need for protection of forested areas was recognized as early as 1875. By 1889 it appeared to some observers that environmental damage was occurring. An extended drought in the 1880s coincided with severe forest fires throughout the prairie region. These fires threatened the mountain parks, left smoke so thick the work of surveyors was interrupted and destroyed "quantities of timber upon berths under license to mill owners."[157] The commissioner of Dominion Lands reviewed the climatic changes which deforestation was said to produce and observed:

> It is a fact that in the North-West, and more particularly in the settled portions, the country has of recent years dried up very considerably — sloughs and marshes are fast disappearing, rivers once navigable are now so low as to render traffic upon them impossible, and damage to crops by drought is becoming frequent; but whether this is in consequence of the rapid consumption and destruction of timber, or results from other causes, I am not able to say.[158]

Resolution of the problem rested in protection of forested areas.

Proposed forest reserves were set out by the Winnipeg Crown timber agent in 1893. Creation of the first reserves was slightly delayed since some land within their proposed boundaries had been alienated and it was necessary for the Crown to attempt to obtain control of these lands in order to effect a workable administration of the reserves. Forest reserves were first created in 1896, at Turtle and Moose Mountain in Manitoba and the NWT respectively, "with the view of securing a continuous supply [of timber] for the future needs of the settlers."[159] Establishment of the initial forest reserves was accomplished under the *Dominion Lands Act*.

In addition to these first reserves, a very large reserve was established along the eastern slopes of the Rocky Mountains, recognizing the necessity of continuous timber supply and the importance of the watershed to the volumes of water which flowed from it to the Arctic Ocean and Hudson Bay. In 1894 the Winnipeg Crown timber agent recommended reserving and protecting the timber "on and adjacent to the streams flowing eastward from the Rocky Mountains" with a view toward irrigation for the semi-arid plains below.[160] In 1898 the Dominion Lands on the eastern slopes of the Rocky Mountains south of the Bow River were prospectively withdrawn from the regions for which permits to cut timber were issued. The reason cited for the withdrawal was "the view of supplying a permanent supply of water for irrigation purposes."[161] Eastern slopes policy achieved its fullest expression on 13 May 1910, under section 76(e) of the *Dominion Lands Act* of 1908. This section allowed the governor in council to withdraw any tract or tracts of land, provided that the reason for withdrawal was set forth in the order effecting the withdrawal. In May 1910, an extensive eastern slopes forest reserve was created, running from the international boundary north to the sixty-first township west of the fifth meridian.[162] The reason given was that "it is considered necessary to administer ...[the lands]... so as to continue the benefits of protection of the water supply while at the same time providing for the proper utilization and the reproduction of the forest."[163]

The early forest reserves were established under the *Dominion Lands Act*. In 1906 a separate act was adopted, the *Dominion Forest Reserves Act*, which defined eight forest reserves in British Columbia, six in Manitoba, four in Saskatchewan, and three in Alberta.[164] This legislation was then replaced by the *Dominion Forest Reserves and Parks Act* of 1911, under which the existing forest reserves were continued and new reserves established.[165]

The various Dominion policy initiatives in relation to forestry gave rise to separate branches of the civil service charged with execution of the policies. In particular, the Timber Branch was responsible for commercial leaseholds while the Forestry Branch was responsible for forest reserves (excluding timber berths located in forest reserves). By 1915 friction between the two groups revealed the inadequacies of the Timber Branch. Up to that time the Timber Branch had been dominated by patronage appointees whose formal training in forestry principle was wholly lacking. Criticism of this situation by the influential Commission of Conservation finally brought about appointment by merit in the Timber Branch.[166]

Friction between the two groups was a symptom of conflict in the basic approach to administration of timber. This underlying conflict was not resolved by the replacement of political appointees. Commercial tenures were primarily administered for revenue and to make timber supplies available to industry. Principles of sustained yield were not incorporated into the lease for the timber berths. Indeed, the commercial lease terms were often unenforced or harmful to regeneration. The diameter limit was criticized by the 1924 federal commission studying the national pulpwood industry as "this hit and miss policy of dictating in legal phraseology the size of the trees which must be left."[167] The diameter limit did not necessarily ensure the regeneration of desirable timber species because the remaining trees were

> all too frequently subject to windthrow as soon as the stand is opened up. Particularly on areas where a ten inch diameter limit has been enforced, an inspection of the logged over lands a year or two following the operations will frequently reveal a veritable jungle of slash, fallen trees and debris.[168]

Slash removal was not effectively enforced on the timber berths.[169] Slash hindered regeneration by providing a source for insect and fungus growth and an ideal material for consumption by subsequent fire. Commercial license requirements for fire controls were also relaxed or not enforced.[170]

Relaxation of these regulatory conditions reduced the operator's costs in the short term but increased them in the long run as operations had to reach remoter areas for merchantable timber stands. Timber resources were exploited by commercial interests for short term gain without regard to sustained yield from the timber berth. The environmental harm from non-enforcement could not be measured in monetary terms. Severe deforestation could perhaps be accepted if the timber berth were to be replaced by the homestead; but the soil conditions and topography of many forest areas were unsuitable for agriculture. As if to protect its forests from its own policies the Dominion established extensive forest reserves where emphasis was placed on sustained yield of the timber resource. At first many forest reserves had timber berths within their boundaries, a legacy of conflicting policies, with the result that forestry management, a process of decades, was set back.

Ranching

Dominion land use policy underwent a severe test in respect of ranching and settlement on semi-arid lands. Ranchers preceded settlers into the semi-arid region of the southwest prairies. They received closed leases, a form of lease which protected the tenure of the rancher and which kept the leasehold closed to settlement activity for the duration of the lease. But settlers utilizing dryland farming techniques soon followed, lured in part by a sequence of wet years in the climatic cycle.[171] Competing uses presented a dilemma to the Dominion, a dilemma resolved through commitment to settlement as a primary end of policy and one to which other policies were subordinate. Open leases — which allowed settlement activity within the leasehold, and which operated to remove settled land from the area of the lease — replaced closed leases.

The *Dominion Lands Act* of 1872 did not provide for grazing leases to commercial ranching interests. Rather, the act provided only that settlers could lease grazing lands in the vicinity of their settlement provided that the leasehold was open to settlement at any time during the term of the lease. This form of landholding came to be classified as an "open" lease since it did not protect the tenure of the lessee.

Northern extensions of the American ranching frontier coincided with the conclusion of Treaty Seven and brought the ranching potential of Dominion Lands to the attention of the government. In 1876 the *Dominion Lands Act* was amended in two respects. Authority was delegated to the governor in council to issue grazing leases to any persons whomsoever — not only to settlers; and the requirement that the leases be open was removed. On the strength of these amendments, and with the attraction of British markets made available by the southern location of the CPR, representations were made to the government regarding the value of the southwestern region as a ranching frontier. By 1880 the deputy minister of the Interior reported that "the advantages offered by the North-West for stock-raising are now receiving the attention from capitalists and experienced cattle breeders which they deserve."[172] By 1881 detailed provisions concerning grazing leases were included in the "Dominion Lands Regulations" and by 1882 commercial leases were issued.[173]

The Dominion issued forty-six grazing leases in 1882 covering an area in excess of two million acres. These leases were "closed" leases in that the leasehold was not open to settlement during the twenty-one-year term of the lease. Provided that the lessee met the lease terms for stocking, at first one head of cattle on every ten acres of land within the lease, and otherwise complied with its conditions, the leasehold could only be opened to settlement through cancellation of the lease by the governor in council after two years' notice had been given.

Closed leases gave security of tenure to an industry in which commencement of operations was slow and costly. Location of the leaseholds in semi-arid lands supported an argument that the leasehold areas were a "special region" which was not suitable for settlement:

> The essence of this argument was that the combination of light sandy soil and dry climate characteristic of much of the southwestern prairie, along with the high elevation and broken nature of the foothill country abutting the Rocky Mountains, made these lands largely unfit for cereal agriculture... Cattlemen vigorously maintained that it was economically absurd and morally wrong to encourage farm settlement in a region that nature had determined to be grazing country when such a policy could only bring eventual ruin and hardship to unfortunately misguided settlers, and in the process destroy an established and profitable industry particularly suited to the dry country.[174]

At first, commercial ranchers were supported in their views by Dominion officials. Settlers who attempted to squat upon the closed commercial leaseholds were evicted.

By 1886 the Dominion was under public pressure to return to its initial policy of open grazing leases, a move in keeping with a fundamental commitment to settlement. Commercial leaseholds then extended along the eastern foothills of the Rocky Mountains and also in the dry areas south of a line running from Calgary to Medicine Hat to Swift Current. After negotiation, ranchers agreed that even numbered sections contained within future leaseholds might be open to settlement during the term of the lease. In return, the ranchers received an undertaking from the Dominion that additional lands which were vital for stock watering purposes would be identified and reserved from settlement altogether.

By order in council on 13 December 1886, the governor in council responded to "representations made ... by the Stock Association of the Provisional District of Alberta, that settlers were squatting upon lands along the river bottoms over which cattle were accustomed to go for water" with the establishment of the first areas known as stock-watering reserves.[175] By 1896 the total area reserved for stock watering exceeded 140,000 acres. Against charges that some of the reserves did not contain water, Dominion officials replied that the reservations without water were either useful as shelter or necessary for access to "valleys and bottoms where pasture and water is abundant."[176]

The 1886 accord between the ranchers and the Dominion was reflected in the consolidated "Dominion Lands Regulations" of 1889. The prospective open lease policy embodied in these regulations allowed homestead and pre-emption entry within the leasehold as well as sale at the ordinary government price, in which event the lease became void in respect of the lands entered or purchased. Leases were to be issued through public competition with the party offering the highest bonus receiving the lease. One head of cattle per twenty acres was the stocking requirement, with the leasehold to be fully stocked within three years after the lease was issued. The lessee paid a ground rent and was required to make returns as required to the minister of the Interior. When the leasehold was stocked the rancher was entitled to purchase a reasonable area of the leasehold for a home and corral. The governor in council reserved the right to grant licenses or permits to cut timber, to grant permits to explore for minerals and to withdraw from the leasehold lands required in satisfaction of railway subsidies or valuable for mineral deposits.

In December 1891 the minister of the Interior distributed a circular to those ranchers who held closed leases. The circular sought to entice these lessees to exchange their closed lease for an open lease in return for the privilege of purchasing up to 10 percent of the area of their leaseholds. In 1892, following discussions with the ranchers, the minister received approval of the governor in council to serve notice upon the ranchers that their closed leases would be terminated on 31 December 1896.[177] The immediate cause of the cancellation was the projected influx of settlers to the region between Calgary and Fort MacLeod, an anticipated result of the completion of a section of the Calgary and Edmonton Railway between those points. The Calgary and Edmonton Railway Company requested that its land subsidy be located in part along the foothills of the Rocky Mountains from Turner Valley, near Calgary, to the international boundary and by the logic of the grant these lands were *ipso facto* fairly fit for settlement. Dryland farming techniques had been introduced to the region with some success and it was thought that irrigation would, in any event, provide the necessary moisture to support agriculture. In the interval lessees were entitled to purchase 10 percent of their leaseholds. After cancellation they would be entitled to accept an open lease for the closed lease in respect of such area of the original leasehold as could be negotiated with the government.

The *North-West Irrigation Act* of 1894[178] demonstrated the Dominion's determination to encourage settlement in the region of the ranching frontier and assured the ascendance of settlement over ranching. This ascendance became marked in the years after 1900. Settlement increased in volume and was assisted by a series of wet years, by winter wheat and by dryland farming techniques. It was also assisted by a change in policy in the Department of the Interior. Older officials who were both familiar with the climate of the south-west and in favour of commercial ranching were removed or isolated from effective power.[179] Stock-watering reserves were opened to settlement, as were the shelter reserves and driftways earlier defended by the department.[180] Finally, the reintroduction of pre-emption in 1908 led the government to serve notice that odd-numbered sections within many commercial leaseholds would be opened to settlement. One part of the expansion of settlement into the ranching domain has been described by a historian who studied the ranching industry of the period:

> During 1904 the last gaps were filled in the band of settlement that stretched from Calgary south to Ft. Macleod along the old cattle trail that marked the division between the western foothills and the open eastern range. In the neighbourhood of the ranching community of High River, 300 homestead entries were granted; a little further south at Nanton, 400 new arrivals were situated and six new school districts were opened; and at Claresholm about 500 new homesteads were established. Still further south near the once vast holdings of the Oxley Ranche, where two years before there was not a settler within forty miles, the little town of Stavely had blossomed forth from the prairie complete with two general stores, a hardware store, two meat markets, two hotels, three livery stables, three blacksmith shops, a lumber yard, two elevators, a schoolhouse, a church, and the dwellings of several hundred inhabitants.[181]

All of these combined in time to effect "a fundamental change in the economic structure of the south-west."[182]

The most significant development in Dominion leasing policy after 1896 was the attempt to restrict grazing to areas which were unfit for agriculture in the first instance. This modification was first seen in regulations of 1905, which partially revived the closed lease system. It was given full effect by the *Dominion Lands Act* of 1908 and by regulations of 1914, which returned the closed lease system to commercial ranching in Dominion Lands. Closed leases could be offered after inspection revealed the land to be unfit for agriculture. In most cases these leases were subject to cancellation after two years notice. Under the 1914 regulations only non-agricultural lands could be leased, under a ten-year closed lease tenure without cancellation by notice. Such an improvement had been recommended by the Ranch Inquiry Commission which reported in 1913.[183] Some uncertainty arose over classification of land as unfit for agriculture. Since one option available to homestead entrants then allowed for satisfaction of homestead duties through raising stock, it was difficult to distinguish agricultural land which could be entered for homestead satisfaction by raising stock and other land unsuitable for agriculture which could be leased for grazing purposes.[184]

The series of wet years which led settlers into conflict with ranchers were followed by drought in the years before and after World War I. The Dominion was obliged to offer relief to hard pressed settlers and ranchers alike. Regulations were adopted which encouraged each to relocate into northern regions. Ranchers were encouraged by the offer of twenty-year leases (not subject to cancellation) to relocate north of the Saskatchewan River to lands more than twenty-five miles from the margin of existing settled areas.[185] Northern relocation was further encouraged in 1919 by the offer of closed leases on any unappropriated land "irrespective of the quality of the soil" provided these lands were more than forty miles from a railway. These leases were subject to cancellation in the event a railway came within the forty-mile limit. In the south the closed leases which had been issued were retroactively subjected to a clause which provided for cancellation after three (later four) years' notice so that the lands could be brought into an irrigation system.[186]

The grazing lease system had several key elements. Area was of paramount importance to commercial ranches, where leases of 100,000 acres were not uncommon. Stocking requirements, from one head in ten acres in 1882 to one in twenty in 1889 and one in thirty in 1914, encouraged economies of scale. Tenure was also significant. It took much capital investment to meet the stocking requirements of a large leasehold and capital sought security in the closed lease. Removal of the closed lease followed by an influx of settlement altered the social and economic structure of the ranching industry. In 1914 the introduction of a stock-raising option of satisfaction of homestead duties showed that the Dominion was interested in smaller mixed farms as well as large commercial ranches. This was really a development of a long standing initiative to encourage mixed farms through grazing and hay leases of small areas.

In its later form, Dominion Lands policy encouraged mixed farming in agricultural lands and ranching in semi-arid lands or in northern areas beyond the boundary of the settled area. Separating these initiatives had proved to be a matter of great difficulty, primarily because the open lease encouraged settlement in semi-arid lands which were not well suited to agriculture in dry years.

Mines and Minerals

Dominion Lands policy regarding mineral resources involves two developments of fundamental importance. First, the Dominion moved to effect a severance of mineral title from surface title in settlement dispositions. Second, it gradually moved from a policy of sale of Crown mineral title to one of leasing. Severance of surface and mineral rights enabled the Crown to regulate the disposition of minerals notwithstanding alienation of the surface. Transition from a regulatory policy of sale to a policy of leasing preserved untold mineral wealth for the Crown.

At first the Dominion took no steps to reserve mineral wealth in Dominion Lands. The *Dominion Lands Act* of 1872 provided that no reservation of gold, silver or other mines or minerals be included in any patent from the Crown for Dominion Lands.[187] This early policy of alienation was of greatest significance in Manitoba since this was where settlement was concentrated during the 1870s.

By the end of the decade coal was regarded as the mineral of most immediate economic value and in 1880 the act was amended to provide

> lands containing coal or other minerals whether in surveyed or unsurveyed territory, shall not be subject to the provisions of this Act respecting sale or homestead, but shall be disposed of in such manner and on such terms and conditions as may, from time to time, be fixed by the Governor in Council...[188]

This policy restricted land to a single use, and did so in a way which was finally unenforceable. Settlement could not be excluded from lands containing minerals. A system of multiple land use was required.

The abandonment of an outright policy of alienation for coal was consonant with the intent of the Dominion to take a direct role in the regulation of settlement. Construction of the CPR would inevitably mean an increase in the demand for anthracite coal, while expanded settlement would mean increased demand for bituminous or lignite grades of coal for domestic heating purposes. By taking a direct role in the disposition of coal the Dominion retained the potential to influence economic development.

Realization of this potential began in 1881 when an order in council authorized the lease of mining locations for a term of twenty-one years with the requirement of an annual ground rent, a royalty per ton on all coal taken out of the mine and the further requirement that the lessee commence active operations on the leasehold within one year and work the mine within two years of the granting of the lease. This initial leasing policy for coal was short-lived. Coal operations demanded a high capital investment and investors of the day balked at a tenure which did not provide long-term security.

The leasing policy was replaced in 1882 with a policy of sale of coal rights. This policy was set out in regulations governing the disposal of coal districts. Distinct coal districts were established in areas which were thought to comprise the centre of a future coal industry — along the Souris, Belly, Bow, Cascade and Saskatchewan Rivers. Lands within each coal district were reserved from settlement and were periodically offered for sale by tender or at public auction on terms fixed by the minister of the Interior. Existing lessees were given the option of converting their leaseholds into freehold by a cash payment.

The Dominion sought to increase its geological knowledge of the region through explorations by the Geological Survey of Canada (GSC). The GSC functioned as a component of the Department of the Interior from 1873 to 1907[189] and its reports had a direct influence on the formulation of Dominion policy. The early explorations by the GSC revealed that the NWT were rich in coal. A report of explorations in 1881 and 1882 noted that "the evidence ... tends still further to confirm the opinion that the coal fields of the North-west may be regarded as practically inexhaustible."[190] An extensive analysis of the coals discovered was published in 1885.[191]

All of this information revealed the intrinsic limitations of the coal districts — impossibly exclusive definitions of agricultural and mineral lands. Settlement could not be restricted to lands which did not contain coal, and the broad distribution of coal deposits strained the rationale for coal districts. Industry could not be restricted to the coal districts; yet, making each coal deposit a coal district was impractical.

In response to the problems created by the exclusive land use classification system reflected in the coal districts, the Dominion took the first step toward a general policy of mineral reservation. In 1886 lands within the coal districts were thrown open to settlement but the coal mining rights therein were reserved to the Crown.[192] This was only an interim solution since the structural problems in land classification remained apparent on the face of the *Dominion Lands Act*. Vague drafting left it uncertain whether homestead provisions applied to lands containing coal or to lands containing commercial deposits of coal. In the consolidated act of 1886 the privilege of homestead entry did not apply to "land on which there is a stone or marble quarry, or coal or other mineral having commercial value."[193] Yet the same act provided that "lands containing coal or other minerals ... shall not be subject to the provisions ... respecting ... homestead entry."[194]

The solution to the problem of multiple land use presented by settlement activity on lands containing mineral deposits was explored by an order in council issued on 31 October 1887.[195] This provided simply that for Dominion lands west of the third meridian,

> All patents from the Crown ... shall reserve to Her Majesty, Her Successors and Assigns forever, all mines and minerals which may be found to exist within, upon, or under such lands, together with full power to work the same.

This 1887 order in council is a milestone in Dominion Lands policy. It solved at one stroke many of the difficulties of inflexible classifications of land.

The wisdom of this policy of general reservation of minerals, made necessary by the wide distribution of coal deposits, was confirmed through geological explorations of the tar sands. At this time the tar sand deposits were thought to be the surface manifestation of an underground pool of oil. Representations were made to the Senate in 1888 that

> The evidence ... points to the existence in the Athabasca and Mackenzie valleys of the most extensive petroleum field in America, if not in the World ... [and] ... it is probable this great petroleum field will assume an enormous value in the near future.[196]

These representations were confirmed by the GSC when it reported in 1889 that "in that region lying to the north of the territories of Alberta and Saskatchewan and drained by the Peace and Athabasca Rivers, lies an immense and as yet practically unexplored oil region."[197]

The mineral reservation policy expressed in the 1887 order in council was extended in 1889. The 1887 order in council was superceded by section 8 of the "Dominion Lands Regulations" of 1889.[198] The 1889 regulations extended the general reservation policy to all Dominion lands in Manitoba and the NWT. It is important to recognize that neither the 1887 nor the 1889 order in council applied to railway land grants, the free grants voted as subsidies to aid railway construction.[199] In effect the scope of the 1887/1889 reservation policy was applied to settlement dispositions; that is, to homestead and pre-emption entry as well as the ordinary sale of otherwise unappropriated Crown land. For the homesteader it was the date of entry rather than the date of patent which determined whether the homestead title included mines and minerals.

Although the Dominion introduced a policy of reserving minerals from settlement dispositions, it continued its regulatory policy of selling the Crown interest in minerals, including coal, to those interested in mineral development. This policy continued for an extended period of time. Leasing replaced sale of Crown coal rights in 1907, though not before very extensive deposits had been alienated. Leasing of base minerals commenced in 1908 and was extended to petroleum and natural gas in 1910. In 1914 sale was removed from the *Dominion Lands Act* as an alternative available to the governor in council when disposing of mineral rights.[200] These policy developments had profound implications for the future of Crown regulation of mineral exploration.

Dominion mineral policy evolved over time and depended upon expansion of geological knowledge as well as settlement and economic activity. Regulations governing the disposition of lands containing coal deposits were established as early as 1881, and supported the creation of a significant coal industry in Alberta. The development of this industry was encouraged by a delay in imposing royalty — except for a brief period under the 1881 regulations, a Crown royalty on coal was not imposed until 1901. Regulations to govern the disposition of mineral lands other than coal lands were established in 1884. These regulations applied to Dominion Lands containing gold, silver, petroleum or other minerals of economic value. The short title of these regulations was the "Quartz Mining Regulations" due to the frequent discovery of quartz crystals in mining locations containing base minerals. Gradually, as individual minerals were discovered and came to be the subject of economic activity, specific regulations were derived from these regulations of general application. Placer mining regulations respecting gold mining activity along the North Saskatchewan River were established in 1897, as were dredging regulations for all rivers in Manitoba and the NWT. Separate petroleum regulations were promulgated in 1898 and were extended in 1906 to include natural gas. Tar sand regulations were issued in 1910 and potash regulations in 1916. The emergence of these specific regulations reflects the increasing development of mineral exploitation in Dominion Lands.

The ability of the Dominion, and later of provincial governments, to retain an effective role in this development stemmed from the reservation of a Crown mineral estate in settlement dispositions, and later from the transition from a policy of sale of Crown minerals to a policy of leasing those minerals. The Dominion at first encouraged development by selling its mineral estate to qualified parties. An increasing maturity brought about abandonment of the alienation of Crown minerals in favour of a system of lease. These two policies enabled government to develop a long standing role in mineral development.

The Railway Belt and Peace River Block

Acquisition of the Railway Belt and Peace River Block of British

Columbia occurred after the essential Dominion land use policies had been formulated. These policies, expressed in the *Dominion Lands Act*, were at first generally extended to the Railway Belt.[201] In 1880 Parliament gave the governor in council specific power to regulate the administration of lands within the Railway Belt.[202] In 1884, by agreement between British Columbia and Canada, the Dominion was obliged to place the lands within the Railway Belt "upon the market at the earliest date possible" for sale to settlers.[203] The specific power of the governor in council to make regulations for these lands was confirmed.[204] In 1885 the Dominion adopted regulations under the *Railway Belt Act* for the survey and administration of lands in the Railway Belt. These were very similar in form to the *Dominion Lands Act*. Surveys were provided for and dispositions for mining, timber and grazing were all addressed. Settlement provisions were added in 1886. In time, although the Railway Belt was administered under a specific delegation of power from Parliament finally expressed in the *Railway Belt Act*, individual regulations promulgated under the *Dominion Lands Act* were often extended so as to apply to the Railway Belt. Lands within the Peace River Block were defined as "Dominion Lands" within the meaning of that term in the *Dominion Lands Act*, thereby enabling the governor in council to regulate the Peace River Block lands under the powers delegated to the governor in council in that act. The Peace River Block was geographically linked to the watershed draining into the Arctic Ocean and access had traditionally been along the fur trade routes running from east to west. It was both logical and expedient therefore to administer the area as Dominion Lands.

The administration of mines and minerals within the lands conveyed by British Columbia was complicated by a series of events which were ultimately founded on the question of whether the province was entitled to appropriate revenue arising from gold mined within its boundaries. The province and the Dominion could not agree on this point. The dispute was taken before the courts, culminating in an 1889 decision of the Judicial Committee of the Privy Council which held that the prerogative rights of the Crown in precious metals remained with the Province of British Columbia.[205]

Since base and precious metals were frequently found in geological combination, divided jurisdiction meant that both federal and provincial law could apply to the working of a claim. Political negotiation achieved a settlement in 1890 intended to ease the administrative difficulties arising from divided jurisdiction.[206] The terms of the settlement provided that the Dominion would dispose of minerals in the Railway Belt, excepting coal, only by patent in fee simple to the province so that these minerals could then be administered under provincial mining laws. The settlement provided for the purchase at a nominal rate by the province of any lands, not being Native reserves or settlements and otherwise available for sale, which were found to contain minerals; and also for the administration by the Dominion of minerals within Native reserves. The Dominion had adopted earlier legislation providing that patents issued were to reserve all mines and minerals to the Crown unless expressly included in the patent.[207]

The settlement itself resulted in further administrative difficulties.

Disputes arose as to whether petroleum, stone, gypsum, clay or marble were minerals and therefore to be administered by the province. In addition the settlement did not provide for the sale to the province of the Dominion interest in base minerals underneath lands for which the surface rights had already been alienated. By 1925 the province asserted that disposal by the Dominion of surface rights to certain properties had retarded the development of the minerals in those properties. Further negotiation resolved the matter in 1925 through the transfer from the Dominion to the province of

> the undisposed of base metals, except coal, petroleum and natural gas, underlying lands for which Dominion Government patents have been issued ... and in which all mines and minerals have been reserved with the exception of lands within the boundaries of existing Dominion Parks and Forest Reserves in the Railway Belt and lands which have been granted for rights of way for the Canadian Pacific and Canadian National Railways.[208]

The remaining Dominion interests in the Railway Belt and Peace River Block in British Columbia were finally the subject of a 1930 intergovernmental agreement which achieved substantially the same result as the 1930 natural resource transfer agreements concluded between the Dominion and the governments of Manitoba, Saskatchewan and Alberta.

While the Railway Belt included minerals of great value, timber was the resource of immediate economic importance. The coastal ranges of the Rocky Mountains supported luxurious timber stands because of the mild climate and early economic activity exploited these areas to serve foreign timber markets. Completion of the CPR in 1885 brought the interior forests within reach of commercial operations and enabled timber operators to serve eastern as well as foreign markets. The Dominion sought to generate revenue from these activities.

The regulations adopted to meet this end went through a period of adjustment which saw the Railway Belt divided into sections, varying in extent and generally distinguishing between coastal and interior forests. In February 1885 the regulations governing commercial timber licenses in Manitoba were extended to include the Railway Belt. This was followed in April by the adoption of regulations for the survey, administration and disposal of Dominion Lands within the Railway Belt. These provided specific provisions which governed lands west of 120 degrees longitude while the *Dominion Lands Act* and its regulations concerning timber licenses applied to the lands east of that point. The boundary lay just west of Kamloops. Creation of a coastal district and an interior district in April was followed by subdivision of the coastal district in July. The district was divided at the intersection of 49 degrees 34 minutes north latitude and 121 degrees longitude, a point west of Yale. Lands between this point and the Strait of Georgia were governed by provincial legislation administered by the Dominion. Lands between this point and 120 degrees longitude were governed by the Railway Belt regulations. In 1887 the western boundary of the interior district was moved from Kamloops to Eagle Pass, near Revelstoke. In 1889 new Railway Belt regulations were adopted but these did not provide for timber dispositions. Instead the Dominion rationalized its timber policy into one set of regulations which applied throughout

Dominion Lands. This effectively reintroduced two districts into the Railway Belt with a boundary at Eagle Pass.

All of this was designed to maximize revenues from the disposition of timber licenses. Public competition for licenses was introduced from the beginning. Licensees had to pay a ground rent and royalty. To obtain the license it was necessary to submit a tender stating a bonus per square mile offered in addition to the ground rent and royalty. In 1889, for example, the ground rent for Dominion Lands east of Eagle Pass was $5 per square mile. That west of Eagle Pass was $32 per square mile. In 1900 the boundary which determined the rental increase was moved back from Eagle Pass to Yale. In 1908 the sealed tender system of public competition was replaced with the public auction. This resulted in substantially higher bonuses being paid and avoided unfortunate events such as that described by the Commission of Conservation in 1918:

> In one case, a berth was sold by sealed tender for $5,000., and the purchaser was the next day offered $40,000. for it by a competitive bidder.[209]

Settlement policies applied to the Railway Belt were broadly comparable to those applied to other Dominion Lands. The township survey system was imposed but there was no provision for reservation of school lands. The terms of the agreement which led to the transfer obliged the Dominion to make the lands available for sale on liberal terms to actual settlers. When the Dominion adopted regulations in 1885 these allowed surveyed land to be opened for homesteading and sale. Terms of sale were also provided. The minimum price per acre was $2.50 and the maximum area which one person could purchase was 640 acres. In 1887 the regulations were amended so as to restrict an owner of more than 160 acres from obtaining a homestead entry. A memorandum which explained the change indicated:

> The area of agricultural land within the Belt is comparatively limited; those who are already settlers and land owners there are, as a rule, extensive land owners, having had ample opportunity of obtaining, under the Provincial laws, all the land they require for cultivation at a low price.[210]

The amendment also attempted "to encourage the culture of fruit" by allowing for the satisfaction of homestead duties through cultivation of orchards rather than cereal crops.

Two major modifications to homestead policy were introduced to account for the unique topographical features of the Railway Belt. The first modification was a reduction of the number of acres which could be entered by a homesteader. The Dominion originally allowed 160 acres but this was without regard for the mountainous nature of the region. In 1904 entry for eighty acres or less was allowed. In 1910 a major revision of the regulations divided the Railway Belt into five regions: Upper Columbia, Lower Columbia, Shuswap, Kamloops and Coast division. Land was further divided within each region according to its height into flooded lands, bench lands and uplands. The extent of land which could be entered in each area was defined and was as little as twenty acres or one-half of a legal subdivision; though, in some areas, it remained 160 acres.

The second modification of settlement policy as it applied to the Railway

Belt related to reservation of timber from the patent issued by the Crown. The Dominion was concerned about fraudulent homestead entries where the entrant was after the timber rather than a plot of land. It wanted

> to prevent persons who merely desired to obtain the timber, from getting possession of land under cover of a homestead entry, stripping the lands of its timber without paying any dues, and then leaving the land much less valuable, for all practical purposes, than if it had remained in its natural state — in other words, neither producing revenue nor actual settlement.[211]

In 1887 the Railway Belt regulations were amended to impose dues on all timber cut and disposed of. Limited duty-free cutting was allowed for building materials necessary for a house and fence and for clearing land for crop. When the homesteader finally received patent the Crown reserved merchantable timber. This could then be licensed to a commercial operator. This policy lasted until 1899. When it was rescinded the new policy operated retroactively so that all persons who made a homestead entry became entitled to the timber on their land "free of dues."[212]

Settlers in the Railway Belt, as in other Dominion Lands, were encouraged through the availability of grazing lands to practice mixed farming. Individual settlers could lease grazing lands or, from 1897 until 1902, a number of settlers could apply to the minister of the Interior for the proclamation of a commons. The commons was regulated by a Board of Overseers vested with the power to make bylaws.

The dry interior of the Railway Belt, like similar interior areas of the Rocky Mountains in the United States, offered potential for commercial ranching. In 1902 a revision of the railway belt grazing regulations commenced with a grant of authority to the minister of the Interior to apply the general grazing regulations to the Railway Belt. In 1904 distinct operations came to centre in the Kamloops region and in 1910 the Dominion issued regulations for this region specifically. The leases offered, whether in 1904 or 1910, were open leases subject to cancellation after notice. The 1904 regulations, however, did not restrict grazing leases to lands which were not suitable for agriculture. The 1910 regulations did and in this way the Railway Belt grazing regulations adhered to the Dominion grazing policy as it applied in the drylands of Alberta and Saskatchewan.

Dominion land use policies in the Railway Belt were broadly comparable to those in other Dominion Lands. Major differences included the absence of extensive grants to railway companies or reservations for HBC or school lands. In theory this would have rendered entire townships open to settlement. In fact the varied topography generally limited agricultural land to relatively small areas. The Dominion was compelled to revise its homestead policy accordingly and restricted homestead entry to as little as twenty acres in some areas. The climate of the interior and coastal areas also obliged the Dominion to revise its homestead policies to account for fruit culture. Grazing by settlers and by commercial ranchers was encouraged, as it was elsewhere, by leases of vacant land for grazing purposes. The significance of the timber resources of the Railway Belt are seen in the revenues derived from commercial timber licenses and also in the reservation of merchantable timber from homestead grants for a period of fifteen years after 1884.

The Yukon

The Klondike gold rush affected the Dominion administration of precious metals in the Yukon just as the Fraser gold rush had affected the administration of mineral lands in British Columbia. Reports of gold mining activity in the Yukon had reached Ottawa by 1886 and resulted in the dispatch of an expedition to the region. Discovery of gold on Bonanza Creek a decade later necessitated the promulgation of specific regulations to govern the placer, hydraulic and dredging operations which quickly sprang up. The Yukon experience presented perhaps the greatest frontier challenge to the Dominion. Swift development of a remote region was not easy to administer, but the Dominion followed "the tradition of Canadian administration, sprung from British roots — a tradition of authority, of rules and regulations established from outside."[213]

The Yukon was at first a component of the NWT. When the lieutenant governor asserted jurisdiction over liquor traffic, and thereby gained "an unexpected $122,000 windfall," the Dominion established the Yukon as a separate territory.[214] Placer mining attracted the first Dominion regulations framed specifically to account for activities along the Yukon River. These allowed any person over eighteen years of age to locate creek, river or bench claims. The most significant amendment of these initial regulations occurred in July 1897, two months after they were first established — a royalty was imposed on gold. In January 1898 new regulations were adopted. These imposed the free miner system, making it necessary to obtain a free miner's certificate in order to locate and work a claim. These also provided for an increased area which could be staked when a new mine was discovered. Difficulties arose from clause 39 of the regulations. This provided for the deemed abandonment of a claim which was not worked for seventy-two hours. The clause was not published in the *Canada Gazette* but was nevertheless applied by the gold commissioner. It was subsequently replaced with a clause which provided for greater security of tenure.

Dredging regulations were also promulgated in January of 1898. Regulations for water diversion followed in August and hydraulic mining regulations were issued in December. With these regulations the Dominion was in a position to realize substantial revenues. Each regulation had its own royalty provision and each provision was amended at least once. The overall importance of the royalty is seen in the sweeping scope of a 1902 ordinance governing collection.[215] The ordinance imposed a royalty of 2.5 percent of the value of the gold shipped from the Yukon, provided for a certificate evidencing payment of the royalty and allowed for confiscation of any gold shipped without payment. It was deemed sufficient proof that gold was being shipped from the Yukon if it was found in the possession of any person leaving Dawson down the Yukon River or leaving Whitehorse in the direction of Skagway.

The Dominion also attempted to generate revenue through the establishment of Crown reserves. The placer mining regulations of 1898 provided for the reservation of every alternate ten claims to the Crown for disposition by the minister of the Interior. The hydraulic mining regulations issued in

December reserved every alternate claim. These Crown reserve provisions were rescinded in 1900.

Other Dominion land use policies were applied to the Yukon but were really ancillary to the gold mining operations. Land could be purchased but the mineral rights were reserved to the Crown. Homestead provisions were not issued until 1906. If the homestead was found to contain gold the mineral could be worked by a miner irrespective of the homestead entry.

The challenge presented by the frontier situation in the Yukon was not easily met. Complaints about corruption in the gold commissioner's office were not resolved through a commission of enquiry. Government officials were prevented from taking a role in mining operations yet government friends received special consideration in the issuance of discretionary grants.[216] The regulations were often unpopular. Despite this, the frontier experience itself was influenced by the application, however difficult, of Dominion laws.

Conservation

The Dominion enjoyed in many of its officials a self-conscious awareness of the historic nature of Dominion Lands policy and of the need to establish policies for the conservation of both land and game. Conservation in this sense involved development of the resource rather than preservation. Efforts with respect to conservation are seen in the creation of forest reserves, discussed above, and again in the creation of national parks or of sanctuaries for both mammals and birds.

These three initiatives came to share a common patron — the Commission of Conservation of Canada, established by an act of Parliament in 1909[217] and directly concerned with the conservation of natural resources. The first members of the commission, appointed by an order in council, included provincial and federal ministers of the Crown responsible for natural resources within their respective jurisdictions.[218] Here was a body with the power not only to recommend policy but to initiate it. One need only compare the commission's annual reports with legislation adopted during the period to recognize the influence of the commission.

The creation and expansion of national parks predates the commission by some time. The first Dominion park reservation was the mineral springs of the cave and basin near Banff, referred to as the Rocky Mountains National Park. On 25 November 1885, the governor in council exercised its power under the *Dominion Lands Act* to reserve from sale, settlement or squatting about a dozen sections of land in the vicinity of the Banff mineral springs "in order that the proper control of the lands surrounding these springs might remain vested in the Crown."[219] The intent was for development of the cave and basin into a spa of world renown. The initial reservation, slightly expanded, became known as the Rocky Mountains Park of Canada in 1887 when an act of the same name was adopted by Parliament. Reserved in the public interest as a national park and sanatorium, the lands fell under the administrative control of the Department of the Interior.

The department's sense of pride in the park is symbolized by the mineral springs of the cave and basin and may be seen in the following insightful passage from the annual report of 1912-1913:

> Samples of the water from the Hot Springs at Banff were tested for radioactivity and the tests showed that the waters possess this wonderful property. It is fast being recognized that the curative value of thermal springs is due more to radioactivity than to the mineral constituents and it is a matter of great satisfaction that the Hot Springs at Banff, in addition to their other medicinal qualities, contain an agency of such exceptional therapeutic value as radioactivity.[220]

By 1888 the spring waters were run through some 14,000 feet of iron pipe laid on the surface of the ground and extended to the Canadian Pacific Hotel — still referred to as the "Banff Springs" — and to the sanatorium. In the cold months these pipes were boxed and packed with moss and reached the hotel with the temperature of 110° F. Water from a spring adjoining the cave and basin, but located at a higher elevation, was diverted to a fountain "playing in front of the buildings" on the park grounds, and was also used to supply a hydrant "from which water can be thrown over each building and can also be used for sprinkling the grounds."[221]

The boundaries of the Rocky Mountains Park were continually expanded during the period under consideration, as were those boundaries of other parks created by order in council including Mount Stephen, Mount Sir Donald, Eagle Pass and an amphitheatre at the summit of the Selkirk range of British Columbia in 1886, Lake Louise in 1892, Yoho in 1901 and Jasper in 1907. This meant that the parks grew in size to encompass lands which the Crown had already alienated through timber berths, grazing leases, sale of mining rights or railway subsidy.[222] The result in the early years was the coexistence of resource development and conservation in the parks. Bankhead, for example, was a major anthracite coal mining venture of the CPR so near to Banff that when the railway finally closed the mine many of the buildings at Bankhead were relocated there. A major component of subsequent parks policy was the eventual extinguishment of these interests as being contrary to the rationale supporting the parks.

It is important to distinguish the legislative initiative for the Rocky Mountains Park from that of the other parks. Until 1911 the Rocky Mountains Park was administered under the *Rocky Mountains Park Act* while other parks were administered under the *Dominion Lands Act*. Regulations governing the Rocky Mountains Park were first established in 1890 but the remaining parks fell outside of the application of these regulations due to their legislative provenance. In 1909 the existing parks regulations were renamed and extended to some of the other parks then existing, a reorganization which anticipated the *Forest Reserves and Parks Act* of 1911. This statute provided a single foundation for the regulation of parks and forest reserves and rationalized the somewhat confusing nomenclature — parks, forest parks, park reserves, and forest reserves — which had developed. Regulations with application to all of the parks were subsequently promulgated.

Recognition of the importance of wilderness areas increased in direct proportion to the extension of settlement in Dominion Lands and resulted in the creation and expansion of parks and forest reserves throughout the period to 1930. By 1928 the area of forest reserves and parks established in Manitoba, Saskatchewan and Alberta exceeded twenty-five million acres.[223] Alberta contained the largest proportion of this acreage, some seventeen million acres, due both to its location on the continental side of the Rocky Mountains and to the later development of settlement within its boundaries. National parks remained under federal jurisdiction following the natural resource transfers of 1930 and by this time just over 8 percent of Alberta's surface area — some thirteen million acres — constituted national parks.

The earliest example of regulation for the conservation of game came from the territorial government. In 1877 the lieutenant governor of the NWT passed the little known "Ordinance for the Protection of the Buffalo." It established seasons for hunting, prohibited the hunting of buffalo under two years of age and the running of buffalo over steep banks or into enclosures. It included the following quite remarkable passage:

> It shall be unlawful at any season, to hunt or kill buffalo from the mere motive of amusement, or wanton destruction, or solely to secure the tongues, choice cuts or peltries.[224]

The ordinance was of doubtful legality because of the conflict with native hunting rights, and also because jurisdiction over wild animals rested with the land owner and the lieutenant governor did not have control over Crown lands. In any event, it was impossible to enforce effectively and was repealed without comment or explanation in 1878. Depletion of the buffalo gave rise to serious food shortages among the Natives and Métis. The Métis in particular had placed great reliance on the buffalo and upon the freight capacity of the Red River cart. The railway displaced both and a poignant photographic image of this was taken in 1890.[225] This photograph reveals thousands of buffalo bones, collected from the open prairie and placed along a railway line in neat, rectangular piles for transhipment to a fertilizer plant in the east.

It is fair to say that Dominion officials were aware of the difficulties which intrusion of Caucasian society presented to traditional Native populations. The roaming buffalo herds were simply incompatible with agricultural development of the prairies, and this was conceded by the Commission of Conservation. In several other important respects, however, and particularly through provisions which allowed Native hunting during close seasons or in reserves of different kinds, Dominion Lands policy attempted to diminish the impact of development on traditional ways of life. In 1889, when the NWT *Game Ordinance* was amended so as to extend close seasons to Native hunting, the Dominion responded by disallowing the ordinance on the basis, *inter alia*, that it would conflict with treaty hunting provisions.[226] In 1930, when the natural resource transfer agreements were negotiated, each included a clause which shielded native food hunting from provincial regulation.

By the time of the completion of the CPR mainline in 1885 the roaming herds were largely gone. Yet, though the great herds had disappeared, the plains buffalo was not extinct. Two American citizens, Charles Allard and Michel Pablo, had collected a large herd of these buffalo and in 1906, when Michel Pablo offered to sell the entire herd of 400-500 buffalo to the Canadian government, negotiations were quickly and successfully concluded by the superintendent of the Rocky Mountains Park. The purchase was a matter of considerable importance for Dominion officials and the annual report of the Department of the Interior contains a long and informative extract from the 29 May 1907 issue of the Montana newspaper the *Daily Missoulan* regarding the roundup of the herd for shipment by rail to Elk Island National Park in Alberta. The author of the article wrote:

> The famous herd which was collected with so much pain and at so great expense ... will become the property of our northern neighbour, whose enterprise and progress have out-yanked the Yankees more than once in recent years.[227]

With some difficulty, but without major incident, the herd was shipped by rail to a point near Edmonton, from which it was driven to a specially prepared holding area in Elk Island Park. Buffalo Park, consisting of three townships along the Battle River near Wainwright, Alberta, was created to hold the buffalo, and special fences were constructed in this regard. The Pablo herd reached Buffalo Park in 1909, where they were mixed with smaller groups of buffalo taken from other locations. Reports then reached Dominion officials that small herds of wood buffalo still existed in the vicinity of Fort Smith. These reports proved true and in 1922 Wood Buffalo Park was created for their protection.[228] Ultimately the herd from Buffalo Park was moved to Wood Buffalo Park.

Some three years after the creation of the park, the "Regulations Respecting Game in the National Parks" were amended insofar as they applied to Wood Buffalo Park. The amendment allowed the superintendent of the park to issue permits to treaty Indians who had hunted and trapped in the park area prior to the establishment of the park, enabling them to continue to hunt within the park boundaries.[229] Permits were also issued to any persons who had hunted in that area of the park south of the Peace River. Other persons were prohibited by law from entering the area of the park without a permit from the superintendent which authorized entry.[230]

Dominion initiatives regarding conservation of other game, as distinct from the game ordinances adopted by the lieutenant governor of the NWT or the game regulations applicable to parks and forest reserves, commenced with *The Unorganized Territories' Game Preservation Act* of 1894.[231] This applied to the NWT except the provisional districts of Assiniboia, Alberta and Saskatchewan. It established closed seasons in which the hunting of named animals and birds was prohibited for all except Native inhabitants of the country. Violation of the act constituted an offence punishable on summary conviction. Following the creation of Alberta and Saskatchewan as provinces in 1905 the act was brought forward in the 1906 *Revised Statutes of Canada* as the *Northwest Game Act*.[232] Except for an adjustment of the area to which it applied this act was subsequently unchanged from the legislation of 1894.

In a paper delivered to the Commission of Conservation in 1916 the Dominion entomologist criticized the *Northwest Games Act* as being seriously out of date.[233] A number of specific proposals for amendment of the act were made, all with the object of wildlife conservation in the north which would, *inter alia*, serve to support traditional Native lifestyles. This resulted in a complete revision of the legislation and in adoption of the revisions by Parliament in 1917.[234] Perhaps the most significant amendment was the establishment of a licensing system for hunting by any person except a Native, Eskimo or Métis resident in the NWT.

Admirable in its conception, the licensing system was marked by failure in its execution. By 1923 the minister of the Interior reported that large numbers "of foreign and other trappers from outside points" were "rapidly depleting the wildlife resources of the North West Territories."[235] An attempt to deter this activity by increasing license fees faltered due to the inability of police patrols to establish an effective degree of surveillance in this vast area. In 1926 several areas were reserved exclusively as hunting and trapping preserves "for the sole use of the aboriginal population."[236] These areas were the Peel River, Arctic Islands and Slave River preserves. In 1929 the Arctic Islands preserve was redefined to include Banks and Victoria Islands.

Just before World War I the Dominion became interested in the establishment of northern ranching of reindeer and musk ox. This interest followed an American initiative in Alaska. As early as 1892 the Americans imported Siberian reindeer to a government station. Congress voted funds for additional animals and for recruitment of Lapp herders to care for them. By 1907 the formalized reindeer service in Alaska had regulations which governed the education of reindeer herders. The object of this American project was to establish self-sufficient herds which could provide meat to Natives and, eventually, to an export market.[237]

In 1911 the Dominion attempted to follow the Americans by conducting an experiment in which reindeer were introduced to Fort Smith. It was a pathetic failure. Fifty reindeer were purchased in Newfoundland. Four died in the voyage to Québec and four more died during the rail movement to Athabasca Landing. The reduced herd was moved by scow to Fort Chipewyan, but the food supply failed and eight more died en route. The herd was then driven in the spring of 1912 to the Fort Smith region. There was "trouble with flies" and in July the herd "stampeded owing to the heat and flies." Only twelve were recovered and in June of 1913 these "again stampeded on account of flies." Some strays were recovered but these were killed by dogs or disease.[238]

This unfortunate experiment at Fort Smith ended Dominion interest until 1918 when the governor in council set aside certain areas in northern Manitoba, and in the NWT, in order to lease these areas to those who sought to establish an industry for the grazing of reindeer. Then, in 1919, a royal commission was struck to investigate the possibilities of reindeer and musk ox industries in the Arctic and sub-Arctic regions of Canada. Its report in 1922 is an interesting review of the state of affairs in the Arctic but its recommendations were for further study. Perhaps the most significant development noted by the commission was the resignation of one of its members, the Arctic explorer Vilhjalmar Steffanson, in order to obtain a grazing lease in southern Baffin Island. The commission recommended, and the governor in council established, reserves on Southampton, Coats and Mansel Islands "for the purpose of providing grazing grounds for reindeer and musk-ox."[239] The governor in council also granted a thirty year lease of the south part of Baffin Island to Steffanson with fifteen years of free grazing privileges in order to encourage the successful establishment of his initiative.[240] The lease was soon assigned to Sir Augustus Nanton and Edward Fitzgerald, then further assigned to the Hudson's Bay Reindeer Company Ltd. The company reported in 1927 that its effort to import reindeer had failed and the Dominion cancelled the lease.[241]

The royal commission had earlier recommended that a general policy of offering grazing rights "to persons desirous of securing such concessions" was unjustified.[242] The governor in council followed this recommendation and rescinded the 1918 order which authorized such a policy.[243] Cancellation of the Baffin Island privilege concluded Dominion efforts to develop northern animals through grazing.

Initial efforts to establish legislative protection for birds commenced in 1887 when some 2,500 acres of Dominion Lands were reserved from sale and settlement as breeding grounds for wild fowl.[244] Protection of birds as a goal of public policy was reinforced by the Commission of Conservation in 1914. An essay which detailed the international efforts to save birds from wanton destruction was reprinted as an appendix to the report of the commission's fifth annual meeting.[245] This was in essence a foundation to adoption of the *Migratory Birds Convention Act* by Parliament in 1917.[246] This statute was authorized by section 132 of the *British North America Act*, which enabled Parliament to adopt legislation which gave effect to international treaties — in this case the "Migratory Birds Convention." The *Migratory Birds Convention Act* authorized the creation of extensive bird sanctuaries across Canada, and the creation of close seasons for hunting these birds. Many bird sanctuaries were established across Canada, and a regulation was established for their control and management. Beginning in 1925 a limited number of areas in the three prairie provinces were set aside under section 76(e) of the *Dominion Lands Act* of 1908, as public shooting grounds "to make it possible for the general public to have access to a reasonable and fair share of the game"[247] protected under the *Migratory Birds Convention Act*.

Dominion initiatives with respect to conservation were truly farsighted. The aegis of legislation was extended to large areas of parks and forest reserves, to migratory birds and to game. These may be counted today with the richest of Canadian resources.

Conclusion

The *Dominion Lands Act* served as a blueprint for frontier development. When first adopted in 1872 it set out a rudimentary land classification system — after extinguishment of Native title and survey by township and range, land was to be disposed of according to its use. Some had to be given to the HBC in satisfaction of an obligation arising from the acquisition of the whole. Some was to be reserved from disposition for use by the Natives, for satisfaction of "the Métis claims" and for dedication to railway purposes. The rest was to be the object of settlement and its associated development. Homestead or free grants were to entice the humble landless. For their benefit certain areas would be withdrawn and held by the Dominion as an educational endowment, a source of future capital to pay for development of an infrastructure of schools and teachers. Other suitable areas in the vicinity of settlements would be made available for grazing and hay purposes. Lands rich in timber or minerals — especially coal — would be disposed of to capitalists so that these natural resources could be developed to serve the common good. Finally, otherwise unappropriated land could be sold to those with the requisite means. This was a sturdy yet flexible plan. Its main features endured throughout the period to 1930 despite revisions made necessary by the increasing maturity of the frontier and by events which could not have been foreseen at the time it was drafted.

In time an extensive and elaborate regulatory structure developed. Many acts of Parliament, not just the *Dominion Lands Act*, were enacted to meet specific concerns ranging from irrigation to soldier settlement to the creation of national parks. Some of these individual acts delegated a regulation-making power to cabinet with the result that the law governing land use in Dominion Lands, in the Railway Belt and in the Peace River Block was comprised of many individual acts or regulations, all of which were amended from time to time as required.

The single most significant development in land use policy in the period to 1930, outside of railway grants and settlement dispositions, was the development of a concept of multiple land use. In this respect, reservation of mineral title to the Crown from settlement dispositions and the subsequent adoption of a leasing policy for Crown mineral interests are perhaps the most significant. The full significance of these policies was not seen in the period under review, but emerged after the natural resources transfer agreements when oil and gas were widely exploited in prairie lands.

To some extent the development of the law governing land use is a measure of the development of the frontier itself. Many activities were governed by a federal regulation of one kind or another and the creation of these regulations often reflected a new development in the frontier. So, for example, the 1897 regulations for the issue of leases to dredge in submerged river beds in Manitoba and the NWT reflects gold dredging activities outside of the Yukon. Photographs of these dredges can be seen in public archives.

One surprising feature of this extensive regulatory structure is the tempo of amendment of the law. Land use regulations were frequently amended within days or weeks of being promulgated, and then amended again many times in the following months and years. Acts of Parliament were also amended from time to time, particularly (but by no means exclusively) the *Dominion Lands Act*. This suggests that while Parliament was anxious to control development of its lands, and attempted to exercise this control through an elaborate body of acts and regulations, it was nevertheless quite willing to amend its scheme in order to accommodate developments arising in the implementation of its policy. A great deal of research could be done in this area, to cast light on the background to and development of these numerous amendments.

Indeed, many policies changed dramatically in the period under consideration. Railway land grants were abandoned altogether. Mineral dispositions switched from a system of sale to a system of leasing. Commercial ranching moved from a closed lease system to an open lease system and then back again. Early grants of land as a reward for military service were often unconnected with any requirement to develop the land; but the final soldier settlement policies under the *Soldier Settlement Act* were directly intended to develop agriculture and to enable returned veterans to pursue an agricultural way of life.

One must not forget that the enactment of a law is not the same as its enforcement. Again, research may be usefully done to determine the extent to which the laws were enforced or applied. Clearly, enforcement of the law is central to the impact of that law on frontier development.

NOTES

1. T.D. Regehr, "Historiography of the Canadian Plains After 1870" in Richard Allen, ed., *A Region of the Mind: Interpreting the Western Canadian Plains* (Regina: Canadian Plains Research Center, 1973), 91.
2. This criticism was made by the late Dr. Lewis H. Thomas, editor of the revised edition of *"Dominion Lands" Policy*, in the "Introduction," p. xv. See Chester Martin, *"Dominion Lands" Policy* (1938; Toronto: McClelland and Stewart, 1973).
3. Ibid., 175.
4. *British North America Act* 30-31 Victoria c.3 (U.K.). Now referred to as the *Constitution Act 1867*.
5. *Rupert's Land Act* (1868) 31-32 Victoria p. iv (U.K.).
6. The resolutions of Parliament, the deed of surrender and the "Rupert's Land and the North-Western Territory Order" are reprinted in the *Statutes of Canada*, 1872, 35-36 Victoria pp. lxiii *et seq.*
7. *Manitoba Act* (1870) 33 Victoria c.3 (Can.), proclaimed in force by the "Rupert's Land and North-Western Territory Order" and confirmed by the *British North America Act* (1871) 34-35 Victoria c.28 (Imp.).
8. *Alberta Act* (1905) 4-5 Edward VII c.3, s.21; *Saskatchewan Act* (1905) 4-5 Edward VII c.42, s.21.
9. *An Act respecting the Vancouver Island Railway, the Esquimault Graving Dock, and certain railway lands of the Province of British Columbia granted to the Dominion* (1884) 47 Victoria c.6 (Can.) and *An Act relating to the Island Railway, the Graving Dock, the Railway Lands of the Province* (1884) 47 Victoria c.14 (B.C.).
10. Cited in *Report of the Royal Commission on the Natural Resources of Manitoba* (Ottawa: King's Printer, 1929), 13.
11. *Attorney-General of British Columbia v. Attorney-General of Canada* (1889) 14 A.C. 295 (Privy Council (P.C.) 303) [the precious metals case].
12. Alexander Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories* (Toronto: Belfords, Clarke and Co., 1880), 182-83.
13. Ibid., 314, 317-18.
14. Ibid., 322.
15. Ibid., 331.
16. Ibid., 344 and 352.
17. Ibid., 369.
18. *Indian Act* (1876) 39 Victoria c.18, s.6.
19. A starting point for research into the administration of Native reserves is John Leslie and Ron Maguire, eds., *The Historical Development of the Indian Act*, 2nd ed. (Ottawa: Indian Affairs and Northern Development, 1983). A list of sources can be found in Linda Fritz, *Native Law Bibliography*, 2nd ed. (Saskatoon: University of Saskatchewan Native Law Centre, 1990). Also useful is Sharon Helen Venne, *Indian Acts and*

Amendments 1 .69-1975: An Indexed Collection (Saskatoon: University of Saskatchewan Native Law Centre, 1981).

20. *Manitoba Act* (1870) 33 Victoria c.3.
21. G.F.G. Stanley, *The Birth of Western Canada: A History of the Riel Rebellions* (Toronto: University of Toronto Press, 1961), 244.
22. *Annual Report of the Department of the Interior for the Year 1885*, xix (hereafter referred to as *Annual Report*).
23. Stanley, *Birth of Western Canada*, 244.
24. *An Act to remove doubts as to the construction of section 31 of the Act 33 Victoria chapter 3, and to amend section 108 of the Dominion Lands Act* (1873) 36 Victoria c.38.
25. *Annual Report* 1874, 8.
26. Order in council (O.C.) 7 September 1876. See also *Annual Report* 1885, xviii *et seq.*
27. *Annual Report* 1879, xv.
28. *An Act respecting the appropriation of certain Dominion Lands in Manitoba* (1874) 37 Victoria c.20.
29. O.C. 23 March 1876 with Report of the Minister of the Interior 17 March 1876.
30. Ibid.
31. *Annual Report* 1879, 9.
32. See for example Joe Sawchuk, Patricia Sawchuk and Theresa Ferguson, *Metis Lands Rights in Alberta: A Political History* (Edmonton: Metis Association of Alberta, 1981), 87 *et seq.* See also O.C. 4 December 1893 (P.C. 3058).
33. *Dominion Lands Act* (1879) 42 Victoria c.31, s.125(e).
34. *Annual Report* 1881, vi.
35. Stanley, *Birth of Western Canada*, 254.
36. Ibid., 255.
37. O.C. 30 March 1885 (P.C. 688).
38. *Annual Report* 1886, xix.
39. O.C. 1 March 1886 (P.C. 309), O.C. 9 May 1887 (P.C. 898).
40. *Annual Report* 1889, xxix.
41. O.C. 20 April 1885 (P.C. 810).
42. *Annual Report* 1896, 10-11.
43. Ibid.
44. *Dominion Lands Act* (1899) 62-63 Victoria c.16, s.4.
45. *Annual Report* 1900-1901, part I, xlvii and part VI, 1-8.
46. O.C. 29 July 1925 (P.C. 1100).
47. House of Commons, *Debates*, 6 July 1885, p. 3113, cited in Stanley, *Birth of Western Canada*, 244.
48. Ibid.
49. *Annual Report 1883*, pt. II, Report of the Surveyor-General, p. 4. This source is relied upon for the details of the development of the survey.

50. Stanley, *Birth of Western Canada*, 255. The incident is described at page 68.
51. *Annual Report 1883*, pt. II, Report of the Surveyor-General, p. 3..
52. L.G. Thomas, ed., *The Prairie West to 1905: A Canadian Sourcebook* (Toronto: Oxford University Press, 1975), 3. "Indeed it gave to the prairie landscape its distinctive checkerboard pattern and that predominance of straight lines that proclaims the determination of the prairie man to subdue the forces of nature."
53. *Annual Report 1883*, pt. II, Report of the Surveyor-General, p. 9.
54. *Revised Statutes of Canada (R.S.C.)* 1886 c. 50, s. 108 (N.W.T.) and *An Act Respecting Roads and Road Allowances in Manitoba* R.S.C. 1886 c.49, as amended; *The Saskatchewan and Alberta Road Allowances Act* (1905) 4-5 Edward VII c.38, as amended.
55. O.C. 20 November 1907 (Alta., Sask. and Man.); O.C. 3 May 1919 (P.C. 929) (Peace River Block); C.R.C. 1889 c.100, s.9; O.C. 22 June 1918 and 6 October 1919 (2043) (Railway Belt).
56. *Dominion Lands Act* (1874) 37 Victoria c.19, ss.16 to 18.
57. *North-West Territories Act* 38 Victoria c. 49, s.54; and O.C. 7 October 1876 (P.C. 946).
58. *The Registration of Titles Ordinance*, NWT ordinance no. 9 of 1879.
59. *North-West Territories Act* (1880) 43 Victoria c.25, s.64 and O.C. 27 October 1880 (1717).
60. *Territories Real Property Act* (1888) 51 Victoria, c.20 s.9.
61. *The Territories Real Property Act* (1886) 49 Victoria c.26 and *The Land Titles Act* (1894) 57-58 Victoria c.28.
62. In *Re the Land Titles Act, 1894, and the Canadian Pacific Railway Company* (1899) IV Terr. L.R. 227.
63. The deed of surrender is reprinted in *Statutes of Canada*, 1872, 35-36 Victoria pp. lxiii *et seq*. A list of the posts and of the acreage of their respective blocks is provided in the schedule to the deed of surrender. The largest blocks of adjoining land were 3,000 acres in area.
64. National Archives of Canada, RG 33/51, vol. 7, file 156D, "Brief Resume of the Canadian Government's allotment of Lands, within the Fertile Belt, under the Deed of Surrender dated 1869 and Subsequent Dominion Government Legislation with special reference to the Province of Alberta." O.C. 19 December 1924 (P.C. 2158).
65. *Hudson's Bay Company v. Attorney-General of Canada* [1929] A.C. 285 (P.C.). The land policies adopted by the company are discussed in John S. Galbraith, "Land Policies of the Hudson's Bay Company 1870-1913," *Canadian Historical Review* 32, no. 1 (March 1951): 1-21.
66. Details of school policies are discussed in Nancy M. Sheehan et al., eds., *Schools in the West: Essays in Canadian Educational History* (Calgary: Detselig, 1986).
67. *Dominion Lands Act* (1893) 56 Victoria c.18; (1894) 57-58 Victoria c.26; (1895) 58-59 Victoria c.34.

68. Gerard V. La Forest, *Natural Resources and Public Property Under the Canadian Constitution* (Toronto: University of Toronto Press, 1969), 37. The learned author notes: "this limitation was somewhat relaxed in Saskatchewan in 1948 ... and another modification was made in all three provinces in 1951 ... but it was not until 1961 that this exception to the equalization policy of the 1930 agreements was removed by an amendment which provided that the school lands and school lands fund should be administered or disposed of in such manner as the provinces may determine."

69. Chester W. Martin, "Our 'Kingdom for a Horse': The Railway Land Grant System in Western Canada," in *Canadian Historical Association Annual Report 1924*, 73.

70. Robert W. Swenson, "Railroad Land Grants: A Chapter in Public Land Law," *Utah Law Review* 5, no. 3 (1957): 456.

71. Chester Martin, "Our 'Kingdom for a Horse'," 77.

72. O.C. 26 December 1874. Citations for the orders in council referred to in this section can be found in Appendix I under subject heading CPR main line land reserves.

73. O.C. 26 December 1874

74. O.C. 9 November 1877.

75. *Annual Report* 1879, xv.

76. An interesting and useful summary of this and subsequent CPR land grants is in Glenbow Alberta Institute Archives Division, M2281. "Outline of History of Company's Land Grants" in report of the Canadian Pacific Railway Company, Calgary, 1959.

77. *An Act respecting the Canadian Pacific Railway* (1881) 44 Victoria c.1.

78. *An Act to authorize the construction, on certain conditions, of the Canadian Pacific Railway through some Pass other than the Yellow-Head Pass* (1882) 45 Victoria c.53.

79. One article which reviews the authorities is W.A. Waiser "A Willing Scapegoat: John Macoun and the Route of the CPR," *Prairie Forum* 10, no. 1 (Spring 1985): 65.

80. Thomas, *The Prairie West to 1905*, 6.

81. Citations for the "Dominion Lands Regulations" are listed in Appendix I. The long title of these regulations was: "Regulations for the Sale, Settlement, Use and Occupation of Dominion Lands in the Province of Manitoba and the North-West Territories."

82. Virtually identical forms of expression were used in the statutes which authorized the "free grant" of subsidies in land to railway companies. A remarkable number of railway companies were referred to in the statutes, far more than actually received grants. For the authorizations see: (1885) 48-49 Victoria c.60, s.5 [N.W. Coal and Navigation Co.; Manitoba and S.W. Colonization Railway Co.; Manitoba and N.W. Railway Co.; Qu'Appelle, Long Lake and Saskatchewan Railway and Steamboat Co.]; (1886) 49 Victoria c.11 [N.W. Central Railway Co.; Manitoba and N.W. Railway Co.; Wood Mountain and Qu'Appelle Railway Co.]; (1887) 50-51 Victoria c.24 [Alberta and Athabasca Railway Co.; Qu'Appelle, Long Lake and

Saskatchewan Railway Co.; Medicine Hat Railway and Coal Co.]; (1889) 52 Victoria c.4 [N.W. Coal and Navigation Co.; Red Deer Valley Railway and Coal Co.; N.W. Railway Co. of Canada; Lake Manitoba Railway and Canal Co.]; (1890) 53 Victoria c.4 [C.P.R. Souris Branch; Brandon and S.W. Railway Co.; Lac Seul Railway Co.; Calgary and Edmonton Railway Co.; N.W. Coal and Navigation Co.; Lake Manitoba Railway and Canal Co.; Manitoba and S.E. Railway Co.]; (1891) 54-55 Victoria c.10 [C.P.R. Souris Branch; Manitoba and S.W. Colonization Railway Co.]; (1894) [C.P.R. Pipestone Extension; Rocky Mountain Railway and Coal Company; Brandon and S.W. Railway Co.; Saskatchewan and Western Railway Company]. For the actual grants see Martin, *"Dominion Lands" Policy*, 53 *et seq*., especially pages 56-57.

83. Martin, *"Dominion Lands" Policy*, 155.
84. Ibid., 154.
85. Ibid., 50.
86. (1911) 45 Supreme Court Reports (S.C.R.) 170. See also: La Forest, *Natural Resources and Public Property*, 135.
87. Ibid., 179.
88. W.H.P. Clement, *The Law of the Canadian Constitution* (Toronto: Carswell, 1916), 644.
89. The *Railway Act* did not expressly reserve mines and minerals from expropriated lands until 1903, 3 Edward VII c.58, s.132(2).
90. W.T. Easterbrook and Hugh G.J. Aitken, *Canadian Economic History* (Toronto: Macmillan, 1956), 441-44.
91. *Annual Report* 1927-28, 27-28.
92. Ibid., 1890, xxv.
93. Ibid., 1889, xii. See also Provincial Archives of Alberta, Accession 81.312/5, Conference of Dominion and Provincial Governments, Land Patents Branch, p. 3.
94. Vernon C. Fowke, *Canadian Agricultural Policy: The Historical Pattern* (Toronto: University of Toronto Press, 1946), 180.
95. The section 32 claims are discussed in D.N. Sprague, "Government Lawlessness in the Administration of Manitoba Land Claims 1870-1887," *Manitoba Law Journal* 10 (1980): 415.
96. The rights of common and hay are discussed in Barry Kaye, "'The Settlers' Grand Difficulty': Haying in the Economy of the Red River Settlement," *Prairie Forum* 9, no. 1 (1984): 1.
97. Memo of 2 September 1873 from A. Campbell, minister of the Interior, attached to and approved by O.C. 6 September 1873 (247"d"). See also *Dominion Lands Act* (1883) 46 Victoria c.17 s.79.
98. Ibid.
99. Ibid.
100. *An Act to authorize Free Grants of land to certain Original Settlers and their descendants, in the territory now forming the Province of Manitoba* (1873) 36 Victoria c.37.

101. *An Act respecting the appropriation of certain Dominion Lands in Manitoba* (1874) 37 Victoria c.20, s.4. See also O.C. 28 November 1872.
102. O.C. 7 October 1876 (P.C. 895).
103. Dominion Lands Act (1883) 46 Victoria c.17, ss.80 and 81(f).
104. O.C. 30 March 1885 (P.C. 688), amended by O.C. 18 April 1885 (P.C. 821); and O.C. 19 April 188[illegible].
105. Fowke, *Canadian Agricultural Policy*, 161; also Hugh M. Morrison, "The Background of the Free Homestead Law of 1872," *Canadian Historical Association Annual Report 1935*, 58.
106. The initial homestead exemption legislation was *An Act to Provide for the Creation and Registration of Homestead Exemption Estates in the Territories of Canada* (1878) 41 Victoria c.15. Subsequent legislation is surveyed in *Re Claxton* (1890) 11 Terr. L.R. 282. See also W.F. Bowker "Our Earliest 'Homestead' or 'Dower' Act," *Alberta Law Review* 24, no. 3 (1986): 522; and *An Act to provide for the creation and registration of Homestead Exemption Estates in the Territories of Canada* (1878) 41 Victoria c.15; and Henry Marshall Tory, *Report on Agricultural Credit* (Ottawa: King's Printer, 1924), reprinted in *Sessional Papers* (1924) 14 George V No. 142.
107. *Harris v. Rankin* (1887) IV Manitoba Law Reports 115 and 512; *Regina v. Fawcett* (1900) 13 The Manitoba Reports 205; *Meunier v. Doray* (1905) VI Territories Law Reports 194; *Bocz v. Spillier* VI Territories Law Reports 225; *Purdy v. Colter* VI Territories Law Reports 294; *John Abell Engine and Machine Works Co. v. Scott* (1907) The Western Law Reporter 272; *The Sawyer Massey C. v. Dennis et al.* [1907] Alberta Law Reports 125; *Waterous Engine Works Company v. Weaver* (1908) I Saskatchewan Law Reports 103; In *Re Ebbing* (1909) II Saskatchewan Law Reports 167; *Gaar Scott Company v. Guigere* II Saskatchewan Law Reports 374; *Holford v. McDonald and Davis* (1917) XI Alberta Law Reports 143; *His Majesty the King v. Deacon et al.* (1919) XVIII Exchequer Court Reports (Exch.C.R.) 308.
108. *Dominion Lands Act* (1923) 13-14 George V c.44, s.2.
109. See O.C. 11 January 1915; O.C. 8 May 1915 (P.C. 1043); O.C. 1 June 1915 (P.C. 1253); O.C. 9 December 1915 (P.C. 2888); O.C. 14 December 1916 (P.C. 2614); O.C. 28 February 1917 (P.C. 555 and 560); O.C. 5 March 1917 (P.C. 561); O.C. 3 April 1917 (P.C. 918); O.C. 9 July 1917 (P.C. 1877); O.C. 11 September 1917 (P.C. 2509); O.C. 3 November 1917 (P.C. 3027); O.C. 20 February 1918 (P.C. 401); O.C. 7 March 1918 (P.C. 459 and 538); O.C. 8 March 1918 (P.C. 37-563); O.C. 7 November 1918 (P.C. 2703); O.C. 10 March 1919 (P.C. 503); O.C. 14 August 1919 (P.C. 1706)
110. *An Act to confer certain powers upon the Governor in Council and to amend the Immigration Act* [War Measures Act] (1914) 5 George V c.2
111. *Annual Report* 1889, I, 12.
112. Ibid., xii.
113. Ibid.
114. *Dominion Lands Act* (1883) 46 Victoria c.17, s.39; (1884) 47 Victoria c.25, s.4; (1886) 49 Victoria c.27, s.10.

115. *Annual Report* 1889, I, 13.
116. *Annual Report* 1908-09, I, 22.
117. Ibid., 25.
118. *Sessional Papers* (1883) 46 Victoria No. 84.
119. *Sessional Papers* (1884) 47 Victoria No. 25j.
120. *Annual Report* 1886, xxxvi. See also Fowke, *Canadian Agricultural Policy*, 176, and the references cited there.
121. O.C. 1 March 1871 and 25 April 1871 (P.C. 874).
122. O.C. 10 September 1872 and 20 May 1875.
123. *Dominion Lands Act* (1872) 35 Victoria c.23, ss.23-28.
124. *Dominion Lands Act* (1883) 46 Victoria c.17, s.22.
125. *An Act respecting the Administration of Justice, and for the establishment of a Police Force in the North West Territories* (1873) 36 Victoria c.35, s.17.
126. O.C. 27 November 1876
127. *North-West Mounted Police Act* (1879) 41 Victoria c.36, s.10.
128. *An Act to authorize grants of land to members of the Militia Force lately on active service in the North-West* (1885) 48-49 Victoria c. 73.
129. (1885) 48-49 Victoria c.73 was the first and (1900) 63-64 Victoria c.17 the last. A list of intervening acts is included with the latter.
130. *An Act to authorize a bounty to Volunteers who served the Crown in South Africa* (1908) 7-8 Edward VII c.67. For judicial consideration see *Inter-Ocean Real Estate Company v. White* (1909) 20 Manitoba Reports 67.
131. 1910, 9-10 Edward VII c.60; 1912, 2 George V c.52; 1913, 3-4 George V c.55; 1914, 4-5 George V c.18.
132. O.C. 6 May 1915 (P.C. 1017), O.C. 4 February 1916 (P.C. 234).
133. Provincial Archives of Alberta, Accession 81.312/9, "Alienation of Lands in Alberta (1905-1930)," p. 13.
134. *Report of the Royal Commission on the Natural Resources of Alberta* (Ottawa: King's Printer, 1935), 30, and *Report of the Royal Commission on the Natural Resources of Saskatchewan* (Ottawa: King's Printer, 1935), 29.
135. See Desmond Morton and Glenn Wright, *Winning the Second Battle: Canadian Veterans and the Return to Civilian Life 1915-1930* (Toronto: University of Toronto Press, 1987).
136. O.C. 11 February 1919 (P.C. 299).
137. House of Commons, *Hansard*, 17 May 1917, p. 1162.
138. House of Commons, *Hansard*, 23 June 1919, p. 3861.
139. *Soldier Settlement Act* (1917) 7-8 George V c.21, s.6(b).
140. Ibid., s.7(d).
141. O.C. 11 February 1919 (P.C. 299).
142. *Canada Gazette*, Table of Public Statutes, vol. 12, no. 4, March 2, 1990, p. 182.
143. National Archives of Canada, RG 2, O.C. 23 May 1921 (P.C. 1675).

144. The 1940 legislation is referred to in the debates of the House of Commons and the Senate. See House of Commons, *Hansard*, 21 May 1940, p. 80, 4 June 1940, pp. 521 *et seq.*, 23 July 1940, pp. 1873 *et seq.* Senate, *Hansard*, 25 July 1940, p. 361 *et seq.*, 30 July 1940, pp. 395 *et seq.*, and 2 August 1940, p. 416. The Senate *Journals* also reflect the defeat of the bill: 2 August 1940, pp. 237-38.
145. Senate, *Debates*, 25 July 1940, p. 362.
146. The executive action in 1948 is described in *Reese v. The Queen* [1957] S.C.R. 794 at 797; [1956] Ex.C.R.94 at 103-4.
147. Soldier Settlement Board, *Fourth Report of the Soldier Settlement Board of Canada*, 31 December 1925, p. 5.
148. Morton and Wright, *Winning the Second Battle*, 204.
149. Soldier Settlement Board, *Sixth Report of the Soldier Settlement Board of Canada*, 31 December 1927, p. 5.
150. Soldier Settlement Board, *Seventh Report of the Soldier Settlement Board of Canada*, 31 December 1928, pp. 10-11.
151. Ibid., p. 7.
152. Ibid., p. 5.
153. See Paul Voisey, "Rural Local History and the Prairie West," *Prairie Forum* 10, no. 2 (1985): 327; and *Alberta's Local Histories in the Historical Resources Library* (Edmonton: Alberta Culture and Multiculturalism, 1986, 6th ed.).
154. A recent example is Kenneth H. Norrie, "National Policy and the Rate of Prairie Settlement," in R. Douglas Francis and Howard Palmer, eds., *The Prairie West: Historical Readings* (Edmonton: Pica Pica Press, 1985), 240: "... the Homestead Act had assumed virtually its final form by 1882...". With the greatest of respect, the *Dominion Lands Act* was extensively revised and amended after 1882.
155. *Annual Report* 1874-75, pt. III, p. 10.
156. *Report of the Royal Commission on Pulpwood* (Ottawa: King's Printer, 1924), 204-5, reprinted in *Sessional Papers* (1924) 14-15 George V No. 310.
157. *Annual Report* 1889, xvii.
158. Ibid., pt. I, p. 18.
159. Ibid., 1895, xxi.
160. Ibid., 1894, 52.
161. Ibid., 1898, xxi.
162. O.C. 13 May 1910 (P.C. 939).
163. Ibid.
164. *An Act respecting Forest Reserves* (1906) 6 Edward VII c.14, *R.S.C.* 1906 c.56.
165. *An Act respecting Forest Reserves and Parks* (1911) 1-2 George V c.10.
166. Commission of Conservation, *Forests of British Columbia* (Ottawa: King's Printer, 1918), 107; and *Report of the Sixth Annual Meeting* (Toronto: Bryant Press, 1915), 121-22.
167. *Report of the Royal Commission on Pulpwood*, 195.

168. Ibid.
169. Ibid., 196-98.
170. Ibid., 207.
171. James B. Hedges, *Building the Canadian West: The Land and Colonization Policies of the Canadian Pacific Railway* (New York: Macmillan, 1939), 325-26. Mixed and dryland farming are analysed in David Spector, *Agriculture on the Prairies 1870-1940* (Ottawa: Parks Canada, 1983).
172. *Annual Report* 1880, viii.
173. David H. Breen, "The Turner Thesis and the Canadian West: A Closer Look at the Ranching Frontier," in Lewis H. Thomas, ed., *Essays on Western History* (Edmonton: University of Alberta Press, 1976), 151. The best reference for the development of the ranching industry is David H. Breen, *The Canadian Prairie West and the Ranching Frontier 1874-1924* (Toronto: University of Toronto Press, 1983).
174. David H. Breen, "The Ranching Frontier in Canada 1876-1905," in Thomas, *The Prairie West to 1905*, 223.
175. O.C. 13 December 1886 (P.C. 2131). Stock watering reserves were also established by O.C. 12 October 1889; O.C. 28 December 1889; O.C. 7 November 1890; O.C. 28 May 1892; O.C. 21 May 1895; O.C. 23 January 1896; O.C. 21 September 1897.
176. *Annual Report* 1896, p. I, pp. 32-34.
177. Breen, *The Canadian Prairie West and the Ranching Frontier*, 74 *et seq*.
178. *An Act respecting the utilization of the waters of the North-west Territories for Irrigation and other purposes* [The North-west Irrigation Act] (1894) 57-58 Victoria c.30; (1895) 58-59 Victoria c.33; (1898) 61 Victoria c.35.
179. Breen, *The Canadian Prairie West and the Ranching Frontier*, 111-13.
180. Ibid., 139-40. Withdrawal of land from the stock watering reserves extended over a considerable period of years. See O.C. 6 April 1896; O.C. 21 December 1903; O.C. 19 January 1904; O.C. 12 October 1907; O.C. 28 May 1909; O.C. 6 July 1909; O.C. 17 July 1909; O.C. 4 March 1910; O.C. 11 March 1910; O.C. 13 April 1910; O.C. 15 October 1914 (P.C. 2578); O.C. 28 March 1916 (P.C. 676); O.C. 1 June 1920 (P.C. 1254); O.C. 18 June 1920 (P.C. 1376); O.C. 8 May 1928 (P.C. 767 1/2); O.C. 12 July 1928 (P.C. 1207); O.C. 10 September 1928 (P.C. 1654); O.C. 15 November 1928 (P.C. 2063); O.C. 4 May 1929 (P.C. 758); O.C. 31 May 1929 (P.C. 943).
181. Breen, *The Canadian Prairie West and the Ranching Frontier*, 127-29.
182. Ibid., 166.
183. Ibid., 190.
184. Ibid., 197.
185. O.C. 23 August 1919 (P.C. 1723).
186. O.C. 4 November 1920; O.C. 3 October 1921; O.C. 12 April 1922.
187. *Dominion Lands Act* (1872) 35 Victoria c.23, s.36.
188. *Dominion Lands Act* (1880) 43 Victoria c.26, s.6.
189. Morris Zaslow, *Reading the Rocks: The Story of the Geological Survey of Canada 1842-1972* (Toronto: Macmillan, 1975).

190. Geological and Natural History Survey of Canada, *Report of Progress for 1880-81-82* (Montréal: Dawson Brothers, 1883), 14.

191. G.C. Hoffman, "Coals and Lignites of the North-West Territory," in Geological and Natural History Survey of Canada, *Report of Progress 1882-83-84* (Montréal: Dawson Brothers, 1885).

192. O.C. 18 April 1886.

193. *Dominion Lands Act, R.S.C.* 1886 c.54, s.32(4).

194. Ibid., s.47.

195. This order in council does not seem to be a part of any series of regulations then existing.

196. Cited in James M. Parker and Kenneth W. Tingley, *History of the Athabasca Oil Sands Region, 1890-1960's*, prepared for the Alberta Oil Sands Environmental Research Program by the Boreal Institute for Northern Studies, AOSERP Report 80 (Edmonton: University of Alberta, 1980), 33.

197. Geological and Natural History Survey of Canada, *Annual Report (New Series) 1888-1889*, IV: 82s-83s.

198. Consolidated Regulations of Canada (1889) c.97, s.8. This was judicially considered and found to be *intra vires* in *Starley v. New McDougall-Segur Oil Co.* [1927] 3 Dominion Law Reports (D.L.R.) 428 and 811 (Alberta Supreme Court); and in *Creighton v. United Oils* [1927] 3 D.L.R. 804.

199. *The Calgary and Edmonton Railway Company and Another v. The King* [1904] A.C. 765, reversing (1903) 33 *S.C.R.* 673 which affirmed (1902) 8 Ex. C.R. 83.

200. *Dominion Lands Act* (1914) 4-5 George V c.27, s.8.

201. *An Act to Extend to the Province of British Columbia "The Dominion Lands Act"* (1875) 38 Victoria c.51.

202. *An Act to repeal the Act extending "The Dominion Lands Act" to British Columbia, and to make other provision with respect to certain Public Lands in that Province* (1880) 43 Victoria c.27

203. *An Act respecting the Vancouver Island Railway, the Esquimault Graving Dock, and certain Railway Lands of the Province of British Columbia, granted to the Dominion* (1884) 47 Victoria c.6, s.11.

204. Ibid., s.11(4).

205. *Attorney-General of British Columbia v. Attorney-General of Canada* (1889) 14 A.C. 295 (P.C.).

206. O.C. 11 February 1890 (P.C. 2065-G), amended by O.C. 28 February 1890 and confirmed in O.C. 28 April 1890.

207. O.C. 20 April 1885, s.27; Consolidated Regulations of Canada (1889) c.100, s.32.

208. O.C. 20 August 1925 (P.C. 1336).

209. *Forests of British Columbia*, 106.

210. O.C. 17 September 1887 (P.C. 1877).

211. Ibid.

212. O.C. 5 July 1899.

213. Morris Zaslow, *The Opening of the Canadian North 1870-1914* (Toronto: McClelland and Stewart, 1971), 139.

214. Ibid., 109.

215. O.C. 21 May 1902. See also, ibid., 114.

216. Zaslow, *The Opening of the Canadian North*, 113-15.

217. *An Act to Establish a Commission for the Conservation of Natural Resources* (1909) 8-9 Edward VII c.27.

218. O.C. 3 September 1909, reprinted in the Commission of Conservation, *Report of the First Annual Meeting* (Ottawa: Mortimer, 1910), xi.

219. O.C. 25 Nov. 1885 (P.C. 2197), formalized by the *Rocky Mountains Park Act* (1887) 50-51 Victoria c. 32. The early claims to ownership of the springs are reviewed in W.F. Lothian, *A History of Canada's National Parks*, vol. 1 (Ottawa: Parks Canada, 1976) 1:18 *et seq*.

220. *Annual Report*, 1912-1913, "Report on Dominion Parks by the Deputy Minister of Interior."

221. *Annual Report*, 1888, p. xxii.

222. Lothian, *History of Canada's National Parks*, iv:96 *et seq*.

223. *Annual Report*, 1927-28, p. 27.

224. N.W.T. Ordinance No. 5 of 1877, repealed by Ordinance No. 3 of 1878.

225. University of Alberta Archives, photo Accession 74-169-91. Caption: "Buffalo Bones at Saskatoon, August 9, 1890."

226. C. Gordon Hewitt, "The Conservation of Our Northern Mammals" in Commission of Conservation of Canada, *Report of the Seventh Annual Meeting* (Montréal: Federated Press, 1916), 34: "But that is a case where, on economic grounds, reduction in numbers might be considered justifiable, as the buffalo was occupying rich lands required for agriculture." Peter A. Cumming and Kevin Aalto, "Inuit Hunting Rights in the Northwest Territories" *Saskatchewan Law Review* 38 (1974): 251 at 265 to 271.

227. *Annual Report*, 1906-07, Report of the Deputy Minister.

228. In the period to 1930 the regulations which applied to Wood Buffalo National Park were: 21 June 1909 (P.C. 1340); 6 June 1911 (P.C. 1336); 1 December 1919 (P.C. 2415); 18 December 1922 (P.C. 2498) [this established WBNP and declared that the earlier regulations would apply within its boundaries]; 30 April 1926 (P.C. 634); 24 September 1926 (P.C. 1444).

229. O.C. 30 April 1926 (P.C. 634).

230. O.C. 24 September 1926 (P.C. 1444).

231. *The Unorganized Territories' Game Preservation Act* (1894) 57-58 Victoria c.31.

232. *The Northwest Game Act, R.S.C.* 1906, c.151.

233. Hewitt, "The Conservation of Our Northern Mammals," 32.

234. *An Act respecting Game in the Northwest Territories of Canada* [the Northwest Game Act] (1917) 7-8 George V c.36.

235. O.C. 10 July 1923 (P.C. 1234). See also: Cumming, "Inuit Hunting Rights," 280-85.

236. O.C. 19 July 1926 (P.C. 1146), expanded by O.C. 25 Jan. 1929 (P.C. 113). See also: O.C. 12 March 1920 (533).
237. *Report of the Royal Commission to Investigate the Possibilities of the Reindeer and Musk-ox Industries in the Arctic and Sub-arctic Regions of Canada* (Ottawa: King's Printer, 1922), Appendix II, is the source of information concerning the American activities.
238. Ibid., Appendix VII.
239. O.C. 10 March 1920 (P.C. 522).
240. O.C. 29 May 1920 (P.C. 1229).
241. O.C. 27 May 1927 (P.C. 1010).
242. *Report of the Royal Commission to Investigate the Possibilities of the Reindeer and Musk-ox Industries in the Arctic and Sub-arctic Regions of Canada*, 37.
243. O.C. 27 May 1921 (P.C. 1727).
244. O.C. 8 June 1887.
245. M.E. de Miklos, "Protection of Birds" in Commission of Conservation, *Report of the Fifth Annual Meeting* (1914), 218 *et seq*.
246. *Migratory Birds Convention Act* (1917) 7-8 George V c.18.
247. O.C. 9 March 1925 (P.C. nos. 347, 348 and 356). This is a partial list.

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A SELECTED LIST OF STATUTES APPLICABLE TO DOMINION LANDS

The following list is a selection of the federal statutes applicable to Dominion Lands in the period 1872 to 1930. The acts are listed by the long title with the short title (where existing) given in square brackets. Local and private acts of Parliament are not included. Many public acts have not been included on this list, although every effort has been made to provide a comprehensive list of the statutes which deal with the primary subjects covered in this study. For ease of reference, statutes which were amended or consolidated several times are listed only once, under the long title of the originating statute, so that all citations appear in one location.

Note that the statutes are generally arranged here in the sequence in which their subject matter is addressed in the text of the introductory essay. The long titles have made an alphabetical listing of the statutes somewhat meaningless and the frequency of amendment makes a chronological listing less useful.

A useful starting point for research into the federal statutes of the period is Harris H. Bligh, *The Dominion Law Index Embracing All the Legislation of the Dominion Parliament; and such Unrepealed Provincial Enactments and Imperial Statutes, Treaties and Orders As Bear Special Relation to Canada (1867-1914)*, 3rd ed. (Toronto: Carswell, 1915). This lists the acts by subject, and provides legal citations.

Acts which have constitutional significance can be found reprinted in an Appendix to the *Revised Statutes of Canada* (*R.S.C.*) for 1970 and 1985. This includes, particularly, the natural resource transfer agreements which are schedules to the *Constitution Act, 1930*.

It is particularly important to note that the statutes applicable to Dominion Lands were frequently amended and it is necessary to compile the amendments in order to develop an understanding of the law. For this reason, works such as Alfred B. Morine, *The Mining Law of Canada* (Toronto: Canada Law Book Company, 1909) are of limited value. This book is an extensive reproduction of the Acts and Regulations in effect in 1906 governing mines and minerals under the jurisdiction of the Dominion of Canada. It provides a cross-section of the law of the period, that is, the law in force at one particular point in time, and is of limited value for studies which cover a broad span of time.

An Act respecting the Public Lands of the Dominion [Dominion Lands Act] (1872) 35 Victoria c.23; (1874) 37 Victoria c.19; (1876) 39 Victoria c.19; (1879) 42 Victoria c.31; (1880) 43 Victoria c.26; (1881) 44 Victoria c.16; (1883) 46 Victoria c.17; (1884) 47 Victoria c.25; (1886) 49 Victoria c.27; *R.S.C.* 1886 c.54; (1887) 50-51 Victoria c.31; (1888) 51 Victoria c.21; (1889) 52 Victoria c.27; (1891) 54-55 Victoria c.24; (1892) 55-56 Victoria c.15; (1893)

56 Victoria c.18; (1894) 57-58 Victoria c.26; (1895) 58-59 Victoria c.34; (1897) 60-61 Victoria c.29; (1898) 61 Victoria c.31; (1899) 62-63 Victoria c.16; (1900) 63-64 Victoria c.20; (1901) 1 Edward VII c.20; *R.S.C.* 1906 c.55; (1908) 7-8 Edward VII c.20; (1909) 8-9 Edward VII c.11; (1914) 4-5 George V c.27 and 28; (1918) 8-9 George V c.19; (1919) 9-10 George V c.50; (1919 2nd Session) 10 George V c.13; (1920) 10-11 George V c.11; (1921) 11-12 George V c.30; (1922) 12-13 George V c.21; (1923) 13-14 George V cc.12 and 44; (1924) 14-15 George V c.39; (1925) 15-16 George V c.10; *R.S.C.* 1927 c.113; (1928) 18-19 George V c.21.

An Act providing for the Organization of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands (1868) 31 Victoria c.42.

An Act to provide for the establishment of "The Department of the Interior" (1873) 36 Victoria c.4.

An Act for enabling Her Majesty to accept a Surrender upon Terms of the Lands, Privileges, and Rights of "The Governor and Company of Adventurers of England Trading into the Hudson's Bay" and for admitting the same into the Dominion of Canada (Imperial) [Rupert's Land Act, 1868] reprinted in (1868) 31-32 Victoria p. iv.

Rupert's Land and The North-Western Territory Order (Imperial) reprinted in (1872) 35-36 Victoria pp. lxiii *et seq*.

An Act for the temporary Government of Rupert's Land and the North-Western Territory when united with Canada (1869) 32-33 Victoria c.3; (1874) 34 Victoria c.29.

An Act respecting the force and effect of the Acts of Parliament of Canada in and in relation to the Province of Manitoba, and the Colony of British Columbia when it becomes a Province of the Dominion (1871) 34 Victoria c.13.

An Act to amend and consolidate the Laws respecting the North-West Territories [North-West Territories Act] (1875) 38 Victoria c.49; (1877) 39 Victoria c.21; (1877) 40 Victoria c.7; (1880) 43 Victoria c.25; (1884) 47 Victoria c.23; (1886) 49 Victoria c.25; *R.S.C.* 1886 c.50; (1888) 51 Victoria c.19; (1891) 54-55 Victoria c.22; (1894) 57-58 Victoria c.17; (1897) 60-61 Victoria c.28; (1898) 61 Victoria c.5; (1900) 63-64 Victoria c.44; (1905) 4-5 Edward VII c.27; *R.S.C.* 1906 c.62; (1907) 6-7 Edward VII c.32; (1908) 7-8 Edward VII c.49; (1913) 3-4 George V c.13; *R.S.C.* 1927 c.142.

An Act respecting Real Property in the Territories [The Territories Real Property Act] (1886) 49 Victoria c.26; *R.S.C.* 1886 c.51; (1887) 50-51 Victoria c.30; (1888) 51 Victoria c.20.

The Land Titles Act (1894) 57-58 Victoria c.28; (1897) 60-61 Victoria c.30; (1898) 61 Victoria c.32; (1899) 62-63 Victoria c.17; (1900) 63-64 Victoria c.21; (1904) 4 Edward VII c.19; *R.S.C.* 1906 c.110; (1910) 9-10 Edward VII c.36; (1924) 14-15 George V c.54; *R.S.C.* 1927 c.118.

An Act respecting Grants of Public Lands [Public Lands Grants Act] *R.S.C.* 1906 c.57; *R.S.C.* 1927 c.114.

An Act respecting Roads and Road Allowances in Manitoba [Manitoba Road Allowances Act] (1876) 39 Victoria c.20; *R.S.C.* 1886 c.49; (1895) 58-59 Victoria c.30; *R.S.C.* 1906 c.99; *R.S.C.* 1927 c.124.

An Act respecting roads and road allowances in the Provinces of Saskatchewan and Alberta [Saskatchewan and Alberta Road Allowances Act] (1905) 4-5 Edward VII c.38; (1906) 6 Edward VII c.45; *R.S.C.* 1906 c.100; *R.S.C.* 1927 c.180.

The Dominion Lands Surveys Act (1908) 7-8 Edward VII c.21; (1919) 9-10 George V c.18; *R.S.C.* 1927 c.117.

An Act to amend and continue the Act 32 and 33 Victoria, chapter 3; and to establish and provide for the Government of the Province of Manitoba [Manitoba Act] (1870) 33 Victoria c.3.

An Act to establish and provide for the Government of the Province of Alberta [Alberta Act] (1905) 4-5 Edward VII c.3.

An Act to establish and provide for the Government of the Province of Saskatchewan [Saskatchewan Act] (1905) 4-5 Edward VII c.42.

An Act to amend and consolidate the laws respecting Indians [Indian Act] (1876) 39 Victoria c.18. For subsequent amendments to the *Indian Act* see: Venne, *Indian Acts and Amendments 1868-1975.*

An Act respecting claims to Lands in Manitoba for which no Patents have been issued (1873) 36 Victoria c.6.

An Act to remove doubts as to the construction of Section 31 of the Act 33 Victoria, Chapter 3, and to amend Section 108 of the Dominion Lands Act (1873) 36 Victoria c.38.

An Act to authorize Free Grants of land to certain Original Settlers and their descendants, in the territory now forming the Province of Manitoba (1873) 36 Victoria c.37.

An Act respecting the appropriation of certain Dominion Lands in Manitoba (1874) 37 Victoria c.20; (1875) 38 Victoria c.52.

An Act respecting Conflicting Claims to Lands of Occupants in Manitoba (1875) 38 Victoria c.53; (1878) 41 Victoria c.14.

An Act to explain and amend the Act respecting the appropriation of certain Dominion Lands in Manitoba (1879) 42 Victoria c.32.

An Act for the final settlement of claims to lands in Manitoba by Occupancy under the Act thirty-third Victoria, Chapter 3 (1880) 43 Victoria c.7; *R.S.C.* 1886 c.48.

An Act to extend the limitation of time under the Act forty-third Victoria, chapter seven intituled 'An Act for the final settlement of claims to lands in Manitoba by occupancy, under the Act thirty-third Victoria, chapter three' (1884) 47 Victoria c.26.

An Act respecting the Province of Manitoba [Manitoba Supplementary Provisions Act] *R.S.C.* 1906 c.99; *R.S.C.* 1927 c.124.

An Act respecting the Canadian Pacific Railway [Canadian Pacific Railway Act] (1881) 44 Victoria c.1.

An Act to authorize the construction, on certain conditions, of the Canadian Pacific Railway through some Pass other than the Yellow-Head Pass (1882) 45 Victoria c.53.

An Act respecting the land subsidy of the Canadian Pacific Railway Company (1894) 57-58 Victoria c.7.

An Act to authorize the grant of certain subsidies in land for the construction of the railways therein mentioned (1885) 48-49 Victoria c.60.

An Act to authorize the grant of certain subsidies in land for the construction of the railways therein mentioned (1886) 49 Victoria c.11.

An Act to authorize the granting of subsidies in aid of the construction of the lines of railway therein mentioned (1887) 50-51 Victoria c.24.

An Act to authorize the granting of subsidies in land to certain railway companies (1889) 52 Victoria c.4.

An Act to authorize the granting of subsidies in land to certain railway companies (1890) 53 Victoria c.4.

An Act to authorize the granting of subsidies in land to certain railway companies (1891) 54-55 Victoria c.10.

An Act to authorize the granting of subsidies in aid of the construction of the lines of railway therein mentioned (1894) 57-58 Victoria c.4.

An Act to provide for the creation and registration of Homestead Exemption Estates in the Territories of Canada (1878) 41 Victoria c.15.; *R.S.C.* 1886 c.52; (1894) 57-58 Victoria c.29.

An Act to authorize a bounty to Volunteers who served the Crown in South Africa (1908) 7-8 Edward VII c.67; (1910) 9-10 Edward VII c.60; (1912) 2 George V c.52; (1913) 3-4 George V c.55; (1914) 4-5 George V c.18.

An Act to authorize grants of land to members of the Militia Force lately on active service in the North-West (1885) 48-49 Victoria c.73.

An Act to make further provision respecting grants of land to members of the Militia Force on active service in the North-West (1886) 49 Victoria c.29.

An Act respecting grants of land to members of the Militia Force on active service in the North-West (1891) 54-55 Victoria c.13.

An Act to make further provision respecting Grants of Land to members of the Militia Force on active service in the North-West (1893) 56 Victoria c.3.

An Act to make further provision respecting Grants of Land to members of the Militia Force on active service in the North-West (1894) 57-58 Victoria c.24.

An Act to make further provision respecting Grants of Land to members of the Militia Force on active service in the North-West (1900) 63-64 Victoria c.17.

An Act respecting the Administration of Justice, and for the establishment of a Police Force in the North West Territories (1873) 36 Victoria c.35.

An Act to amend and consolidate as amended the several enactments respecting the North-West Mounted Police Force (1879) 41 Victoria c.36.

The Soldier Settlement Act (1917) 7-8 George V c.21; (1919) 9-10 George V c.71; (1920) 10-11 George V c.19; (1925) 15-16 George V c.53; *R.S.C.* 1927 c.188; (1928) 18-19 George V c.48.

An Act to confer certain powers upon the Governor in Council and to amend the Immigration Act [War Measures Act] (1914) 5 George V c.2.

An Act respecting Forest Reserves [Dominion Forest Reserves Act] (1906) 6 Edward VII c.14; *R.S.C.* 1906 c.56.

An Act respecting Forest Reserves and Parks [Dominion Forest Reserves and Parks Act] (1911) 1-2 George V c.10; (1913) 3-4 George V c.18; (1914) 4-5 George V c.32; (1916) 6-7 George V c.15; (1918) 8-9 George V c.4; (1919) 9-10 George V c.17; (1923) 13-14 George V c.13; *R.S.C.* 1927 c.78.

An Act to extend to the Province of British Columbia "The Dominion Lands Act" (1875) 38 Victoria c.51.

An Act to repeal the Act extending "The Dominion Lands Act" to British Columbia, and to make other provision with respect to certain Public Lands in that Province (1880) 43 Victoria c.27.

An Act respecting the Vancouver Island Railway, the Esquimault Graving Dock, and certain Railway Lands of the Province of British Columbia, granted to the Dominion (1884) 47 Victoria c.6.

An Act to make further provision respecting the Administration of the Public Lands of Canada in British Columbia (1886) 49 Victoria c.28.

An Act respecting Dominion Lands in British Columbia [Railway Belt Act] *R.S.C.* 1886 c.56; *R.S.C.* 1906 c.59; (1907) 6-7 Edward VII c.39; (1919) 9-10 George V c.4; *R.S.C.* 1927 c.116.

An Act respecting the Water in the Railway Belt and Peace River block of land [The Railway Belt Water Act] (1912) 2 George V c.47; (1913) 3-4 George V c.45; (1926) 16-17 George V c.15; *R.S.C.* 1927 c.211.

An Act to provide for the Government of the Yukon District [The Yukon Territory Act] (1898) 61 Victoria c.6; (1899) 62-63 Victoria c.11; (1901) 1 Edward VII c.41; (1902) 2 Edward VII c.34; (1906) 6 Edward VII c.38; *R.S.C.* 1906 c.63; (1908) 7-8 Edward VII c.76; (1912) 2 George V c.56; *R.S.C.* 1927 c.215.

Yukon Placer Mining Act (1906) 6 Edward VII c.39; *R.S.C.* 1906 c.64; (1908) 7-8 Edward VII c.77; (1912) 2 George V c.57; (1919) 9-10 George V c.10; *R.S.C.* 1927 c.216.

Yukon Quartz Mining Act (1924) 14-15 George V c.74; (1925) 15-16 George V c.55; (1926) 16-17 George V c.17; *R.S.C.* 1927 c.217.

An Act to Establish a Commission for the Conservation of Natural Resources (1909) 8-9 Edward VII, c.27.

An Act respecting the Rocky Mountains Park Act (1887) 50-51 Victoria c.32.; (1902) 2 Edward VII c.31; (1906) 6 Edward VII c.44; *R.S.C.* 1906 c.60.

The Unorganized Territories' Game Preservation Act (1894) 57-58 Victoria c.31; (1901) 1 Edward VII c.21; (1902) 2 Edward VII c.12.

The Northwest Game Act R.S.C. 1906, c.151.

An Act respecting Game in the Northwest Territories of Canada [The Northwest Game Act] (1917) 7-8 George V c.36; *R.S.C.* 1927 c.141.

Migratory Birds Convention Act (1917) 7-8 George V c.18.; (1919) 9-10 George V c.29; (1925) 15-16 George V c.18; *R.S.C.* 1927 c.130.

An Act respecting the utilization of the waters of the North-west Territories for Irrigation and other purposes [The North-west Irrigation Act] (1894) 57-58 Victoria c.30; (1895) 58-59 Victoria c.33; (1898) 61 Victoria c.35.

An Act respecting Irrigation [Irrigation Act] *R.S.C.* 1906 c.61; (1908) 7-8 Edward VII c.38; (1910) 9-10 Edward VII c 34; (1914) 4-5 George V c.37; (1919) 9-10 George V c.3; (1920) 10-11 George V c.55; (1923) 13-14 George V c.16; *R.S.C.* 1927 c.104.

An Act respecting Dominion Water Powers (1919) 9-10 George V c.19; *R.S.C.* 1927 c.210.

An Act respecting Water Power in the Provinces of Alberta, Saskatchewan and Manitoba (1929) 19-20 George V c.61.

FURTHER READING IN THE CASE LAW OF THE PERIOD

Several useful guides exist which provide a starting point for research into the case law of the period. For federal statutes adopted between 1906 and 1927 a very good reference is John F. MacNeil, *Tremeer's Canada Statute Citations* (Toronto: Burroughs, 1929), which contains a collection of cases which considered statutes of Canada between 1906 and 1927. The statutes are listed alphabetically followed by the section numbers from the 1927 *Revised Statutes of Canada*, and the citations for the cases. A similar work covering the statutes of Canada adopted between 1886 and 1902 is George Smith Holmested, *Index of Cases Relating to the British North America Act, the Revised Statutes of Canada (1886) and all subsequent Public Acts of Canada, and the Revised Statutes of Ontario (1897) and all subsequent Public Acts of Ontario up to, and including, the year 1902* (Toronto: [no publisher listed] 1903). This work lists the statutes by chapter and section number in the *Statutes of Canada* and also cites the cases. A.L. McLean, *Citations of the Statutes of Alberta and Saskatchewan 1886-1924* (Toronto: Carswell, 1924) contains a similar collection of cases which considered the provincial legislation; and also includes cases under the *North-West Territories Act*, *R.S.C.* 1906 c.62, the *Irrigation Act* (1898) 61 Victoria c.35, the *Alberta Act* (1905) 4-5 Edward VII c.3 and the *Saskatchewan Act* (1905) 4-5 Edward VII c.42. Redmond Quain, *Digest of Cases Determined in the Exchequer Court of Canada From End of Year 1922 Until the End of 1946* (1948) [no publisher listed] contains a subject listing of cases before the Exchequer Court and a digest of the cases under each subject. Also of use are early editions of the *Canadian Encyclopedic Digest* which contain a subject listing relevant to the law of the period, and which digests the cases under each subject. Headnotes of the Supreme Court and Exchequer Court cases of the period are also included in the Quick Law database, widely available to legal researchers.

APPENDIX I:
A LISTING OF
LAND USE REGULATIONS

This is a listing of the regulations promulgated by order in council in the period to 1930. Regulations are listed by long title, or by subject. The majority of regulations are a part of a distinct series, for example the "Dominion Lands Regulations," and these are listed by long title. Some regulations were issued to address a particular situation, and these have been grouped by subject. The date of each order in council is listed; and the Privy Council (P.C.) number, where known, is in parenthesis immediately after the date. A description of the regulation is occasionally given in square brackets after the Privy Council number. A short description of the purpose of the regulation is provided, indicating whether the order in council established the regulation, amended the existing regulation or repealed the existing regulation and established new regulations. Many regulations are not listed here, although every effort has been made to provide a comprehensive list of the regulations which deal with the main subjects covered in this study.

Outline

Settlement 89
Soldier Settlement 89
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Grazing and Hay 92
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Listing

SETTLEMENT

CPR Main Line Land Reserves

1 March 1871 [reservation projected to commence 1 May 1874]; 25 April 1871 id.; 26 December 1874 [forty mile reservation on surveyed line]; 25 February 1875 [certain townships opened to settlement]; 28 February 1876 [forty mile reservation extended to Battle River]; 22 April 1876 [forty mile reservation from the Battle River to Jasper House]; 9 November 1877 [lands in Manitoba opened to settlement]; 3 September 1878 [forty mile reservation re-est. in Manitoba]; 9 July, 1879 new regs., entitled "Regulations governing the mode of disposing of the Dominion Lands situated within 110 miles on each side of the line of the C.P.R.", est.; 24 October 1879 new regs. substituted for those of 9 July 1879; 19 June 1880 am.; 20 May 1881 new regs, entitled "Regulations for the disposal of agricultural lands within 24 miles of each side of the C.P.R.", substituted for those of 24 October 1879; 23 December 1881 new regs, entitled "Regulations for the Sale and Settlement of Dominion Lands in the Province of Manitoba and the North-West Territories", substituted for those of 20 May 1881; 11 March 1882 ["Mile Belt Reserve"] established; 5 July 1882 [lands from U.S. boundary to CPR belt reserved]; 29 November 1883 ["Mile Belt Reserve" opened under certain conditions]; 29 November 1883 [reserve from U.S. boundary to CPR belt withdrawn effective 1 January 1884]; 30 April 1884 (937) ["Mile Belt Reserve" conditions am.]; 14 March 1888 (394) am.; 30 May 1890 ["Mile Belt Reserve" conditions withdrawn].

Regulations Governing Public Lands in ... Manitoba

1 March 1871 regs. est.; 25 April 1871 new regs. est.; 26 May 1871 am.; 4 November 1874 am.; 26 December 1874 am.; 25 June 1875 am.

Regulations Concerning Settlement Along Rainy River

25 June 1875 (673) regs. est.; 27 June 1876 (630) new regs. est.

Regulations for the Sale, Settlement, Use and Occupation of Dominion Lands in the Province of Manitoba and the NWT [Dominion Lands Regulations]

23 December 1881 (1710) regs. est.; 17 September 1889 (2167) (C.R.C. c.97) new regs. est.; 18 May 1891 (832) am.; 1 August 1896 (2501) am.; 23 January 1897 am.; 9 April 1897 am.; 4 February 1903 am.; 3 June 1918 regs. confirmed and additional regs. est.

Assistance to Settlers in Southern Alberta and Saskatchewan Suffering Crop Failure Due to Drought Conditions

2 September 1914 (2255) [leave of absence allowed]; 3 December 1919 (2427) [intergovernmental relief agreement]; 21 October 1922 (2181) [regulations for removal of settlers]; 9 May 1923 (818) id.; 21 October 1925 (1811) id.; 5 January 1927 (2173) id.; 14 November 1929 (2257) id.

SOLDIER SETTLEMENT

Land Reservation

3 April 1918 (807) [land reservations defined]; 30 October 1918 (2659)

[renting and leasing of reserved lands]; 11 February 1919 (299) [Soldier Settlement Board authorized to purchase and sell lands]; 12 March 1920 (543) [renting and leasing of reserved lands]; 21 January 1921 (78) [land reservations under P.C. 807 discontinued]; 11 March 1926 (348) [Westview Ranch and Slade lease]; 23 May 1928 (846) [lands withdrawn from the Porcupine Forest Reserve]; 10 September 1928 (1655) [transfer of 25,550 acres to the Soldier Settlement Board]; 23 January 1929 (2027) [regulations for disposal of eighty-acre reservations within the area withdrawn from the Porcupine Forest Reserve]; 3 March 1930 (481) [lands withdrawn from the Porcupine Forest Reserve].

Land Regulations of the Soldier Settlement Board

14 May 1918 (1158) regs. est.; 2 July 1918 (1621) am.; 30 October 1918 (2659) am.; 14 June 1919 am.; 18 June 1919 (1254) am.; 25 June 1919 (1318) am.; 15 September 1919 am.; 10 January 1920 am.; 12 March 1920 am.; 23 May 1921 am.; 4 June 1921 am.; 29 June 1922 1345) am.; 16 September 1924 (1597) am.

Regulations for the Granting of Free Entries on Dominion Lands in the Railway Belt

19 July 1918 (1805) regs. est.; 10 April 1926 (524) am. to land regulations incorporated.

Soldier Settlement Board Loan Regulations

5 April 1918 (812) regs. est.; 15 March 1921 (845) new regs. est.

Qualification Regulations of the Soldier Settlement Board

17 January 1919 (123) regs. est.; 3 May 1919 (925) am.; 6 October 1919 (2018) am.

Regulations Governing the Conversion of Patented Pre-emptions or Purchased Homesteads

29 May 1925 (828) regs. est.; 14 March 1930 (586) am.

Regulations Affecting Applications for Revaluation

4 January 1928 (2433) regs. est.; 16 May 1928 (820) new regs. est.

TIMBER

Regulations for the Granting of Permits to Cut Timber in Manitoba

13 January 1873 (22) regs. est. effective 1 November 1873; 26 March 1874 am.; 4 November 1874 am.; 17 January 1876 am.; 1 March 1877 am.

Regulations for the Granting of Permits to Cut Timber in Part of Keewatin [Rainy River]

25 June 1875 regs. est.

Timber and Fuel Regulations for the NWT

20 March 1878 (208) regs. est.

Regulations for the Granting of Permits to Cut Timber in Manitoba, Keewatin and the NWT

10 October 1881 separate regs. consolidated; 20 March 1886 new regs. est.(373); 24 May 1886 (423) am.; 16 May 1889 (1075) am.

Regulations for the Granting of Yearly Licenses to Cut Timber on Dominion Lands in Manitoba and the NWT and the Railway Belt

8 March 1883 regs. est.; 14 October 1884 am.; 17 February 1885 (254) am. [and extended from Manitoba to NWT and the Railway Belt].

Regulations Governing the Disposal of Timber on Dominion Lands ... [in the Railway Belt as far east as Eagle Pass]

20 April 1885 regs. est.; 16 July 1885 am.; 16 September 1886 am.; 2 November 1886 am.; 17 September 1887 am.

Regulations Governing the Granting of Yearly Licenses and Permits to Cut Timber on Dominion Lands in Manitoba, the NWT and Within ... [Part of the Railway Belt] ... of British Columbia

17 September 1889 (2168) (C.R.C. c.98) new regs. est.; 18 December 1890 am.; 20 July 1891 am.; 20 January 1892 am.; 25 July 1895 (2195) am.; 3 January 1896 (3646) am.; 1 July 1898 new regs. est. (1734); 13 January 1899 am.; 19 January 1899 am.; 17 February 1899 am.; 23 January 1900 am.; 3 September 1900 am.; 3 January 1901 am.; 24 September 1901 am.; 30 July 1901 am.; 8 April 1902 am.; 14 April 1903 am.; 10 August 1905 am.; 3 November 1905 am.; 16 May 1906 am.; 23 July 1906 am.; 19 February 1907 am.; 10 June 1907 am.; 19 December 1907 am.; 19 December 1907 new regs. est. [and title amended to include Alberta and Saskatchewan]; 3 August 1908 am.; 17 August 1908 am.; 29 May 1909 am.; 15 October 1909 am.; 21 January 1910 am.; 24 May 1911 am.; 12 August 1911 earlier regs. re-est.; 27 February 1913 am.; 16 February 1914 (412) am.; 7 December 1914 (3023) am.; 1 June 1915 (1253) earlier regs. re-est.; 25 March 1916 (678) am.; 14 December 1916 (3068) am.; 20 December 1916 (3167) am.; 1 August 1917 (2076) am.; 3 June 1918 (1011) am.; 5 August 1918 (1913) am.; 19 September 1918 (2283) am.; 29 March 1919 (673) am.; 24 October 1919 (2192) am.; 29 November 1919 (2381) am.; 12 April 1921 (1191) New regs. est.; 1 June 1921 (1741) separate regs. est. for NWT; 27 June 1921 (2285) am.; 4 February 1922 (248) am.; 10 February 1922 (310) am.; 9 May 1922 (954) am.; 7 June 1922 (1193) am.; 25 September 1922 (1994) am.; 21 October 1922 (2182) am.; 22 December 1922 (2614) am.; 20 November 1923 (2307) am.; 26 March 1924 (459) new regs. est.; 8 April 1924 (558) am.; 15 October 1925 (1807) am.; 23 February 1926 (278) am.; 4 January 1928 (2429) am.

Regulations for the Disposal of Timber in the NWT

1 June 1921 (1741) separate regs. est. for NWT; 29 June 1925 (1026) am.; 3 December 1929 (2348) am.

Regulations Governing the Granting of Permits to Cut Timber for Pulp Purposes on Dominion Lands in the Provinces of Manitoba, Saskatchewan, Alberta, the NWT, and ... [Within the Railway Belt and Peace River Tract] ... in the Province of British Columbia

19 May 1920 (1093) Regs. est.; 14 February 1921 (330) [general conditions for Pulpwood Berth No. 1]; 1 October 1924 (1667) [general conditions for Pulpwood Berth No. 2].

GRAZING AND HAY

Regulations for the Sale and Settlement of Dominion Lands in the Province of Manitoba and the NWT

20 May 1881 (803) regs. est. [ss. 15 to 21 dealing with "Pasturage Lands"]; 23 December 1881 (1710) new regs. est. [ss.16 and 17 dealing with "Pasturage Lands"]; 11 April 1882 (722) [schedule est. form of lease and describing forty-six proposed grazing leases]; 6 October 1884 [grazing of sheep prohibited in defined lands]; 7 April 1887 am.; 22 February 1888 (289) am.; 19 March 1888 (426) am.; 17 September 1889 (C.R.C. c.97) new regs. est. [including Railway Belt, ss.11 to 20 dealing with leases of grazing lands and form of lease]; 22 April 1893 am. [re grazing of sheep]; 31 August 1896 am. [re form of lease]; 15 July 1897 am. [re Railway Belt]; 3 January 1901 am. [re form of lease]; 1 September 1903 [regs. suspended until otherwise ordered]; 15 February 1905 new regs. est. for Manitoba and the NWT.

Regulations for the Issue of Grazing Leases of Dominion Lands in the Provinces of Alberta and Saskatchewan

27 July 1905 new regs. est.; 15 March 1907 am.; 2 June 1909 am.

Regulations for the Issue of Grazing Leases of Vacant Dominion Lands Unfit for Agricultural Purposes in ... Manitoba, Saskatchewan, Alberta, and in the Peace River tract of British Columbia

16 February 1914 (296) new regs. est.; 15 May 1914 (1297) am. [re grazing of sheep]; 1 June 1915 (1253) regs re-est.; 24 February 1919 (428) am.; 4 April 1919 (3198) am.; 19 April 1919 (823) am.; 23 August 1919 (1723) am.; 4 November 1920 (2677) am.; 27 June 1921 (2285) am.; 23 September 1921 (3561) am.; 3 October 1921 (3714) am.; 12 April 1922 (786) new regs. est.; 17 May 1922 (1046) am.; 30 December 1922 (2652) am.; 7 February 1925 (191) am.; 23 April 1925 (605) am.; 5 January 1926 (2226) am.

Regulations for the Issue of Grazing Leases of Lands in ... Manitoba, Which Were Formerly Known as Swamp Lands

16 December 1915 (2962) regs. est.; 18 October 1919 (2151) am.; 1 April 1920 (677) regs. rescinded.

Regulations for the Disposal of Hay on Dominion and School Lands in the Provinces of Manitoba, Saskatchewan and Alberta, and in the Railway Belt in ... British Columbia

15 October 1914 separate regs. est.; 1 June 1915 regs. re-est.

Regulations Governing the Issue of Permits to Cut Hay and the Leasing of Crown Lands for Grazing Purposes in the NWT

29 June 1922 (1336) regs. est.

COAL

Regulations for the Disposal of Coal Lands

17 December 1881 (1687) regs. est.; 26 December 1882 new regs. est. [featuring "coal districts"]; 2 March 1883 am.; 26 March 1884 (572) am.; 3 December 1885 am.; 13 April 1886 am. [coal districts opened for settlement]; 11 July 1888 (1695) new regs. est. [and extended to the Railway Belt]; 17 September 1889 new regs. est.; 9 July 1892 am.; 18 January 1898

am.; 6 February 1901 (235) am.; 19 May 1902 new regs. est.; 25 August 1903 am.; 8 January 1904 [regs. extended to Crowsnest Pass subsidy lands]; 23 March 1904 am.; 4 March 1907 regs. suspended; 9 May 1907 new regs. est.; 16 February 1909 am., 16 February 1909 regs. est. [re prospecting]; 9 December 1909 am.; 31 January 1910 am.; 20 April 1910 new regs. est.; 25 May 1910 am.; 12 and 16 August 1911 regs. re-est.; 6 February 1913 am.; 7 April 1913 am.; 16 January 1915 (103) am.; 26 January 1915 (185) am.; 16 March 1918 (660) am.; 21 September 1918 (2303) am.; 3 May 1919 (931) am.; 6 October 1919 (2044) am.; 26 April 1920 (895) am.; 23 March 1921 (890) am.; 18 January 1923 (91) am.; 8 March 1923 (423) am.; 27 June 1923 (1175) am.; 1 February 1927 (164) am.

Regulations to Govern the Issue of Permits to Mine Coal for Domestic Purposes Only

11 November 1894 minister authorized to issue permits; 9 February 1897 regs. est.; 18 February 1920 regs. rescinded; 11 March 1921 new regs. est.; 14 November 1929 am.

QUARTZ MINING

Regulations to Govern the Disposal of Mineral Land Other Than Coal Lands [Known as the "Quartz Mining Regulations" or as the "Dominion Mining Regulations"]

25 April 1883 (948) Regs. est.; 7 March 1884 (443) new regs. est.; 5 October 1887 (1976) New regs. est.; 9 November 1889 (2240) (C.R.C. c.99) new regs. est.; 24 December 1894 am. (3648); 14 February 1896 (566) am.; 21 March 1898 (203) new regs. est.; 12 September 1898 (2020) am.; 25 January 1899 (164) am.; 2 February 1899 (203) am.; 30 March 1899 am.; 13 June 1899 am.; 3 April 1900 (680) am.; 20 July 1900 am.; 3 January 1901 (2730) am.; 21 January 1901 (132) am.; 6 February 1901 (255) am.; 20 February 1901 (296) am.; 26 November 1903 (1952) am.; 28 November 1903 (1953) am.; 23 March 1904 (545 and 555) am.; 16 September 1904 (1700) am.; 27 July 1905 am.; 17 July 1906 (1031) am.; 3 May 1907 am.; 21 January 1908 (99) am.; 13 August 1908 (1786) new regs. est.; 1 March 1910 (261) am.; 13 December 1910 (2102) am.; 16 May 1911 (1036) am.; 6 June 1911 (1343) am.; 16 August 1911 (1788) earlier regs. confirmed; 12 March 1914 (712) am.; 28 October 1914 (2713) am.; 11 March 1915 (437) am.; 1 June 1915 (1253) earlier regs. re-est.; 25 September 1915 (2252) am.; 8 February 1916 (219) am.; 14 December 1916 (3044) am.; 5 March 1917 (526) am.; 25 May 1917 (1429) new regs. est.; 21 December 1918 (3154) am.; 23 June 1919 (1288) am.; 10 June 1920 (1300) am.; 25 June 1920 (1412) am.; 29 September 1920 (2306) am.; 6 January 1921 (2) am.; 8 March 1921 (670) am.; 4 April 1921 (1118) am.; 20 August 1921 (2951) am.; 6 March 1922 (447) am.; 20 September 1922 (55/1976) am.; 14 February 1924 (252) am.; 3 September 1924 (1508) am.; 2 July 1925 (1062) am.; 5 January 1927 (2171 and 2172) am.; 16 November 1927 (2190) am.; 19 January 1929 (86) new regs. est.; 14 June 1930 (1415) am.

PETROLEUM AND NATURAL GAS

Quartz Mining Regulations

18 December 1890 (2774) am. [re petroleum locations]; 25 August 1891

[existing regs. cancelled]; 6 August 1898 am [re petroleum locations south of the CPR in the district of Alberta].

Regulations for the Disposal of Petroleum Rights in Unappropriated Dominion Lands in Manitoba, the NWT and the Yukon

31 May 1901 (893) regs. est.; 22 December 1902 (1899) am.; 23 March 1904 (513) am.; 1 October 1904 (1638) am.; 22 July 1905 (1393) am.; 26 December 1906 (2287) am. [and extended to include natural gas locations].

Regulations for the Disposal of Detroleum and Natural Gas Rights, the Property of the Crown, in Manitoba, Alberta, Saskatchewan, the NWT and the Yukon

11 March 1910 (414) new regs. est.; 12 October 1910 (1951) am.; 11 March 1911 (417) am. [and extended to include the Railway Belt and Peace River Block]; 12 August 1911 (1787) regs. re-est.; 16 October 1913 (2587) am.; 19 January 1914 (154) new regs. est.; 12 November 1914 (2860) am.; 24 May 1915 (1194) am.; 1 June 1915 (1253) regs. re-est.; 29 May 1918 (2130) am.; 26 February 1919 (418) am.; 3 May 1919 (931) am.; 3 December 1919 (2433) am.; 29 January 1920 (105) am.; 29 October 1920 (2615) am.; 19 November 1920 (2800) am.; 22 January 1921 (146) Regs. suspended [for lands situated in the NWT]; 21 March 1921 (857) am.; 24 March 1921 (953) am.; 27 June 1921 (2285) am.; 21 December 1921 (4613) am.; 26 April 1922 (868) am.; 16 October 1922 (2148) am.; 7 May 1928 (762) am. [by adding regs. governing the issue of permits to prospect for petroleum and natural gas]; 21 August 1929 (1528) am.

Municipal Reserves

21 May 1915 (1120) [Medicine Hat]; 22 June 1916 (1450) [Wainwright]; 15 January 1917 (102) [Edmonton]; 15 November 1918 (2817) [Wainwright]; 9 October 1922 (2014) [Medicine Hat]; 20 October 1922 (2179) [Redcliff]; 4 November 1922 (2294) [Vegreville]; 4 November 1922 (2295) [Tofield]; 7 November 1922 (2302) [Medicine Hat]; 20 November 1922 (2370) [Viking]; 27 February 1923 (292) [Edmonton]; 20 April 1923 (675) [Medicine Hat]; 12 March 1925 (355, 375 and 376) [Medicine Hat]; 2 May 1930 (921) [Wetaskiwin]; 3 May 1930 (935) [Calgary].

Regulations Governing the Issue of Permits to Manufacture Carbon Black from the Surplus Natural Gas Supply Obtained from Dominion Lands in Isolated Fields

25 August 1923 (1687) regs. est.; 26 January 1924 (138) separate regs. est. [for school lands]

Regulations for the Issue of Oil and Gas Permits and Leases in the NWT

11 February 1921 (331) regs. est.; 22 February 1921 (518) am.; 23 March 1921 (889) am.; 24 March 1921 (953) am.; 7 May 1921 (1543) am.; 14 May 1921 (1612) am.; 16 June 1921 (2034) am.; 27 June 1921 (2285) am.; 21 April 1922 (812) am.; 16 October 1922 (2148) am.

PLACER MINING

Regulations for the Disposal and Governance of Placer Mining Claims Along the North Saskatchewan River

13 April 1897 regs. est.

Regulations Governing Placer Mining in Manitoba, Saskatchewan, Alberta and the NWT

8 February 1909 (158) new regs. est.; 26 January 1915 (2826) am.; 20 May 1920 (1113) am. [and extended to school lands]; 29 May 1926 (814) am.; 5 January 1927 (2171, 2172 and 2184) am.

DREDGING

Regulations for the Issue of Leases to Dredge for Minerals in the Submerged Beds of Rivers in Manitoba and the NWT [Subsequently Alberta, Saskatchewan and the NWT]

21 July 1897 (2103) regs. est.; 29 July 1897 (2325) am.; 18 January 1898 (41) am.; 28 February 1898 (431) am.; 13 January 1899 (21) am.; 4 September 1900 am.; 29 January 1925 (143) am.; 20 December 1926 (2109) new regs. est.; 30 March 1928 (502) am. [and extended to forest reserves]; 16 May 1928 (821) am.; 28 November 1928 (2111) am.

BUILDING STONE

Regulations for the Issue of Permits to Remove Sand, Stone and Gravel, the Property of the Crown, from the Beds of Rivers and Lakes in Manitoba, Saskatchewan, Alberta, the NWT, and Within the Railway Belt of British Columbia

17 January 1910 (3) regs. est.; 22 February 1910 (313) am.; 21 April 1910 (762) am.; 12 August 1911 (1786) regs. re-est.; 20 August 1921 (2951) am.

TAR SANDS

Regulations for the Disposal of Tar Sands, the Property of the Crown in Alberta

14 February 1910 (277) regs. est.; 16 August 1911 (1789) regs. re-est.; 31 May 1912 (1486) regs. suspended; 8 July 1920 (1547) [lease of 1,920 acres to General Lindsay]; 9 May 1922 (967) [lease of 1,920 acres to Thomas Draper]; 18 December 1922 (2500) [further lease to Draper]; 15 June 1927 (1159) [am. of lease to Draper]; 3 May 1930 (940) new regs. est.; 5 June 1930 (1235) [permit reservation of 5,120 acres for Max Waite Ball].

Reservation of Certain Lands for the Benefit of Pavement and Road Construction in the National Parks

29 April 1926 (600) [confirmation of earlier reservations dated June 1915 (Horse River block, Christina River block) December 1920 (Moose River block) and October 1924 (experimental treatment site)]; 15 May 1930 (1024) [additional reservation of 581 acres].

Reservation of Certain Lands with an Overburden of Seventy-five Feet Pending the Development of a Successful Extraction Process

3 July 1920 (1495) [initial reservations]; 12 November 1920 (2754) [additional reservations]; 16 June 1921 (2035) [additional reservations]; 17 May 1922 (1040) [authority granted to lease lands within the reservations to anyone showing evidence of a process for the commercial recovery of oil from the tar sands].

Reservation of Certain Lands to Allow the Government of Alberta to Prospect for Sodium Chloride (Common Salt)

6 September 1919 (1860) [initial agreement and reservation]; 30 August

1920 (2047) [additional reservation]; 13 April 1921 (1263) [additional reservation in McMurray settlement]; 30 December 1922 (2661) id.; 26 March 1924 (469) id.; 19 July 1929 (1227) [additional reservation].

QUARRYING

Regulations for the Leasing and Administration of Lands Containing Limestone, Granite, Slate, Marble, Gypsum, Marl, Gravel, Sand or Any Building Stone in ... Manitoba, Saskatchewan, Alberta, the NWT and ... [the Railway Belt and Peace River Block] ... of British Columbia

13 May 1910 (933) regs. est.; 6 June 1911 (1332) [extended to parks and forest reserves]; 16 August 1911 (1791) regs. re-est.; 19 March 1913 (592) am.; 19 June 1915 (1420) am.; 17 September 1915 (2140) am. [and rescinding of the application of the regs. to national parks]; 3 May 1919 (931) am.; 25 June 1926 (984) am. [to include volcanic ash].

Regulations for ... [Dominion Lands Containing Clay]

21 November 1912 (3257) regs. est.; 30 April 1913 (981) am.; 17 September 1915 (2140) am.

POTASH

Regulations for the Disposal of the Naturally Occurring Compounds Containing Sulphate or Chloride Of Potassium, or Both, in a Condition Directly Soluble in Water, the Property of the Crown, in ... [All Dominion Lands]

15 May 1916 (1146) regs. est.; 3 May 1919 (931) am.

ALKALI MINING

Regulations Governing the Disposal of the Rights, the Property of the Crown, to Natural Accumulations of Soluble Minerals Salts and Associated Marls in ... [All Dominion Lands]

6 January 1921 (2) [natural deposits of soluble salts withdrawn from the quartz and potash regs.]; 20 April 1921 (1297) alkali mining regs. est.; 20 November 1923 (2318) am.; 5 January 1926 (2283) am.

RAILWAY BELT

Regulations for the Survey, Administration and Disposal of Dominion Lands Within the Railway Belt

20 April 1885 regs. est.; 16 July 1885 am.; 16 July 1885 am.; 12 April 1886 am.; 11 May 1886 am.; 2 November 1886 am.; 5 January 1887 am.; 17 September 1887 (1877) new regs. est.; 18 March 1889 (564) am.; 17 September 1889 (2169) (C.R.C. c.100) new regs. est.; 13 November 1890 am.; 12 December 1891 am.; 21 March 1892 am. ; 10 November 1893 (2909) am.; 11 July 1895 (1993) am.; 3 August 1898 am.; 5 July 1899 am.; 17 April 1900 am.; 19 May 1902 am.; 20 August 1902 am.; 17 March 1903 am.; 13 July 1904 am.; 13 May 1910 new regs. est.; 1 July 1910 [effective date of new regs. to be proclaimed]; 6 February 1913 regs. of 17 September 1889 am.; 17 October 1914 (1097) am.; 19 June 1915 (1392) am.; 6 January 1916 (3093) am.; 4 February 1916 (217) am.; 19 January 1917 (159) am.; 12 February 1917 (107) am.; 17 March 1917 (736) am.; 27 November 1917 (3243 and 3245) am.; 24 January 1918 (185) am.; 12 April 1918 (896) am.; 22 June 1918 (1509) am.; 6 October 1919 (20[illegible]3) am.; 18 October 1919 (2138) am.; 20 May 1925 (785) am.

Regulations Governing the Grazing of Cattle on Dominion Lands Within the Railway Belt

15 July 1897 separate regs. est.; 24 June 1898 (1601) new regs. est.; 8 April 1902 [regs. for grazing in Manitoba and the NWT extended to the Railway Belt]; 4 June 1904 new regs. est.; 5 July 1904 am.; 4 September 1908 am.; 13 May 1910 new regs. est.; 15 June 1916 (1419) am.; 24 February 1919 (429) am.; 23 September 1921 (3562) am.; 4 February 1922 (245) am.; 26 July 1924 (1274) new regs. est.; 1 October 1924 (1665) am.; 29 July 1925 (1194) am.

Administration of Mineral Lands in the Railway Belt

11 February 1890 (2065-G) [intergovernmental agreement est.]; 28 February 1890 am.; 28 April 1890 [agreement as amended confirmed]; 18 July 1890 am.; 13 May 1899 am.

EASTERN SLOPES OF THE ROCKY MOUNTAINS

Land Reservations

13 May 1910 (939) [extensive reservations est.].

NATIONAL PARKS

Regulations for the Control and Management of Dominion Parks

27 November 1889 (1350) regs. est.; 30 June 1890 new regs. est. for the Rocky Mountains Park; 23 January 1895 am. (3799); 27 July 1905 am.; 3 December 1908 am.; 21 June 1909 (1340) regs. est. for the National Parks of Canada; 26 September 1910 am.; 6 June 1911 regs. re-est.; 6 March 1915 (486) am.; 24 April 1915 (833) am.; 21 May 1915 (1170) am.; 15 August 1916 (1929) am.; 20 July 1916 (1737) am.; 20 August 1918 (2046) am.; 6 March 1919 (498) am.; 12 April 1919 (799) am.; 19 April 1919 (821) am.; 31 May 1922 (1133) am.; 16 October 1922 (2147) am.; 25 June 1926 (967) am.; 22 November 1927 (2221) am.; 20 March 1928 (444) am.; 16 August 1928 (1402) am.; 19 July 1929 (1253) am.; 23 October 1929 (2113) am.

Regulations for the Administration of Timber

21 May 1906 regs. est.; 15 February 1911 am.; 6 June 1911 regs. re-est.; 30 April 1915 (915) new regs. est.; 14 July 1915 (1647) am.

Regulations for the Use of Motor Vehicles

8 April 1911 regs. est. for the Rocky Mountains Park; 6 June 1911 regs. re-est.; 21 June 1912 am.; 19 June 1915 (1394) new regs. est.; 16 September 1915 (2148) am. [and extended to other Dominion parks]; 7 April 1916 (809) regs. consolidated and am.; 18 June 1919 (1249) new regs. est.; 4 February 1922 (268) am.; 30 January 1923 (130) am.; 31 August 1923 (1760) am.; 20 March 1928 (444) am.; 19 July 1929 (1253) am.

Regulations Governing Cinematographs, Moving Picture Machines or Similar Apparatus

27 April 1912 regs. est.; 19 July 1929 am.

Regulations Governing Grazing Privileges

21 May 1914 separate regs. est.

Regulations Respecting Forest Protection

16 September 1915 (2149) Separate regs. est.; 20 March 1928 (444) am.

Regulations Respecting the Protection of Wild Animals and Birds

1 December 1919 (2415) separate regs. est.; 27 August 1924 (1467) am.; 24 June 1927 (1205) am.; 30 June 1927 (1302) am.; 15 March 1928 (414) am.; 20 March 1928 (444) am.; 19 July 1929 (1253) am.

Regulations Governing Travelling on Roads, Streets and Bridges

18 January 1921 (85) separate regs. est.; 4 February 1922 (269) am.; 20 March 1928 (444) am.; 16 August 1928 (1402) am.

Regulations Governing the Licensing of Businesses, Trades or Occupations

9 May 1922 (953) separate regs. est.; 30 May 1923 (972) am.; 3 February 1925 (169) am.; 15 July 1927 (1352) am.; 20 March 1928 (444) am.; 16 August 1928 (1402) am.

Regulations Respecting Fishing

30 March 1925 (450) separate regs. est.; 25 June 1926 (966) am.

Regulations Respecting Municipal Development

23 June 1908 regs. est. [for waterworks, sewerage and plumbing]; 10 March 1909 am.; 6 June 1911 regs. re-est.; 27 November 1913 regs. est. [for buildings]; 7 April 1914 [form of license of occupation for surface rights approved]; 15 June 1914 (1521) regs. est. [for electrical installations]; 27 February 1915 (442) [incline railway on Cascade Mountain approved]; 29 July 1919 (1569) sewerage regs. am.; 9 May 1923 (819) waterworks regs. am.; 5 January 1927 (2155) id.; 20 March 1928 (444) building regs. am.; 19 July 1929 (1253) id.

Regulations to Govern Ice Cutting

29 June 1916 (808) regs. est.; 24 October 1916 (2606) am.

FOREST RESERVES

Regulations for the Maintenance, Protection, Care, Management and Utilization of Forest Reserves

13 January 1908 regs. est.; 12 October 1910 am.; 6 June 1911 regs. re-est.; 8 August 1913 new regs. est.; 24 September 1913 am.; 20 April 1916 (935) am.; 22 January 1916 (3093) am.; 20 April 1916 am.; 1 August 1917 (2090) am.; 26 March 1918 (675) am., 25 July 1918 (1821) am.; 29 March 1919 (674) am.; 14 April 1920 (766) am.; 20 August 1921 am.; 12 April 1921 (1190) am.; 13 April 1921 (1264) am.; 21 April 1922 (810) am.; 17 April 1924 (644) am.; 17 July 1925 (1109) am.; 11 August 1927 (1553) am.; 29 May 1929 (890) am.

Regulations Relating to "Project Meadows" Within Forest Reserves in the Railway Belt

19 December 1916 (3122) regs. est.; 7 February 1917 (340) am.

Regulations Governing the Grant of Rights of Occupation ... for Camping and Summer Resort Purposes

29 May 1909 regs. est.

Regulations Governing Game Protection

6 June 1911 regs. est.; 31 August 1921 additional regs. est.

Regulations for the Granting of Permits for Grazing Purposes

8 June 1911 regs. est.

Regulations Governing the Granting of Permits to Settlers to Cut Timber

29 December 1906 regs. est.

MINERAL DEVELOPMENT WITHIN PARKS AND FOREST RESERVES

Coal

12 October 1892 regs. est. for the Rocky Mountains Park; 12 June 1902 new regs. est.; 6 February 1904 [CPR spur line near Banff]; 10 December 1907 new regs. est.; 30 June 1908 regs. est. [for forest reserves]; 16 February 1909 [regs. for mining within parks am.]; 28 February 1911 [new regs. est. for forest reserves]; 11 March 1911 [regs. est. for Jasper Park]; 6 June 1911 [general regs. extended to parks and forest reserves]; 27 May 1924 [renewal of licenses within Rocky Mountains Park].

Quarrying

20 January 1905 regs. est. [for Rocky Mountains Park]; 6 June 1911 new regs. est. [for parks and forest reserves]; 17 September 1915 (2140) new regs. est. [for parks].

Quartz Mining

18 January 1909 regs. est. [for Jasper Park]; 16 February 1909 regs. est. [for forest reserves]; 6 June 1911 new regs. est. [for parks and forest reserves]; 30 September 1915 (2293) am.; 15 August 1916 (1885) [all parks withdrawn from the regs.].

Petroleum and Natural Gas

29 October 1920 (2614) regs. est. for forest reserves; 4 November 1920 (2706) am.; 9 April 1929 (624) am.

Dredging

30 March 1928 (502) regs. est. [for forest reserves].

SCHOOL LANDS

Grazing

16 March 1894 (812) regs. est. [for the NWT]; 13 July 1895 regs. est. [for Manitoba]; 6 July 1896 am. (2480); 30 January 1900 am.; 22 February 1908 new regs. est. [for Manitoba, Saskatchewan and Alberta]; 15 December 1919 (2503) new regs. est.; 1 April 1921 (1021) new regs. est.; 27 June 1921 (2285) am.; 2 November 1921 (4078) am.; 18 December 1922 (2499) am.; 17 December 1923 (2461) am.

Coal Mining

24 November 1898 [domestic coal mining regs. of 9 February 1897 extended to school lands]; 11 June 1902 regs. [for commercial mining] est.; 26 June 1902 commercial regs. am.; 20 December 1907 new commercial regs. est.; 15 November 1920 (2773) [commercial regs. rescinded and general coal mining regs. extended to school lands]; 15 November 1928

(2064) [new commercial regs. for school lands est.]; 25 February 1930 (421) am.

Petroleum and Natural Gas

18 July 1905 regs. est. [for petroleum]; 22 July 1905 am.; 14 May 1913 new regs. est. [for petroleum and natural gas]; 7 April 1914 new regs. est.; 1 June 1915 (1253) regs. re-est.; 29 April 1920 (926) new regs. est.; 12 July 1928 (1211) new regs. est.; 12 February 1929 (249) am.; 25 February 1930 (421) am.; 26 March 1930 (646) am.

Field Stone and Boulders

22 July 1905 regs. est.

Hay

11 April 1905 regs. est.; 6 June 1911 am.; 15 October 1914 separate regs. est.; 1 June 1915 regs. re-est.

Quartz Mining

29 July 1905 regs. est.; 30 March 1920 [general quartz mining regs. extended to school lands].

Fire Clay

19 October 1912 regs. est.; 17 February 1913 am.

Timber

15 October 1914 (2581) regs. est.; 27 February 1915 (441) am.; 29 April 1919 (887) new regs. est.; 11 June 1921 (1854) am.; 22 December 1922 (2615) am.

Potash

4 February 1918 (156) regs. est.

Placer Mining

20 May 1920 (1113) [general placer mining regs. extended to school lands subject to additional provisions].

Leasing of Recreation Grounds or Exhibition Sites

29 June 1922 (1365) regs. est.; 7 September 1922 (1773) am.

Cultivation

25 January 1924 (123) regs. est.; 23 January 1930 (133) new regs. est.

Carbon Black

26 January 1924 (138) regs. est.

YUKON

Regulations Governing Placer Mining [in the Yukon]

21 May 1897 regs. est.; 15 July 1897 am.; 29 July 1897 am.; 10 August 1897 am.; 16 August 1897 am.; 18 January 1898 new regs. est.; 23 August 1898 am.; 29 March 1899 am.; 30 March 1899 am.; 13 May 1899 am.; 7 October 1899 am.; 24 October 1899 am.; 30 January 1900 am.; 20 February 1900 am.; 2 March 1900 am.; 26 July 1900 am.; 30 January 1901 am.; 13 March 1901 new regs. est.; 31 October 1901 am.; 27 November 1901 am.; 25 January 1902 am.; 15 April 1902 am.; 19 May 1902 am.; 31 May 1902 am.;

31 October 1902 am.; 31 March 1903 am.; 6 July 1903 am.; 8 September 1903 am.; 2 May 1904 am.; 23 December 1904 am.; 31 July 1905 am.; See also *Yukon Placer Mining Act, R.S.C.* 1906 c. 64.

Regulations Governing the Disposal of Timber Berths in the ... Yukon

18 December 1897 regs. est.; 28 February 1898 new regs. est.; 1 July 1898 am.; 20 March 1900 am.; 12 June 1900 am.; 16 March 1901 am.; 31 May 1901 am.; 8 April 1902 am.; 23 December 1904 am.; 10 May 1906 new regs. est.; 2 May 1916 new regs. est.

Regulations for the Issue of Leases to Dredge for Minerals ... in the ... Beds or Bars of Rivers in ... the Yukon

18 January 1898 regs. est.; 9 August 1900 am.; 5 January 1901 am.; 31 March 1903 am.; 14 May 1907 new regs. est.; 31 May 1911 am.

Regulations Governing the Administration of Dominion Lands in ... the Yukon

7 July 1898 regs. est.; 12 February 1900 am.; 2 March 1900 am.; 26 July 1900 new regs. est.; 22 December 1900 am.; 21 January 1901 am. [and separate regs. est. for coal lands]; 8 April 1902 am.; 16 September 1904 am.; 6 April 1909 am.; 13 July 1916 am.

Regulations for the Disposal of the Right to Divert and Use Water from Any Stream or Lake ... for Mining Purposes in the Yukon

3 August 1898 regs. est. [as a part of the placer mining regs. and of the quartz mining regs.]; 7 December 1901 am.; 19 May 1902 am.; 31 March 1903 am.; 30 January 1904 am.; 22 June 1904 am.; 17 December 1904 am.

Regulations for the Disposal of Mining Locations to be Worked by the Hydraulic or Other Mining Process in the Yukon Territory

3 December 1898 regs. est.; 2 March 1900 am.; 25 August 1900 am.; 5 January 1901 am.; 19 May 1902 am.; 2 February 1904 regs. rescinded.

Regulations for the Administration of Grazing and Hay Lands in the Yukon Territory

5 January 1901 regs. est.; 8 April 1902 am.; 15 June 1916 (1418) new regs. est.; 9 May 1922 (981) am.

Regulations Governing the Administration of Dominion Lands in the Yukon Territory Containing Coal

21 January 1901 separate regs. est.; 7 March 1903 am.; 9 May 1907 regs. rescinded.

Regulations Governing the Grant of Homestead Entry on Lands in the Yukon Suitable for Agricultural Purposes

23 July 1906 regs. est.; 3 June 1916 am.

CONSERVATION OF WILDLIFE

Regulations for the Control and Management of Areas Reserved as Bird Sanctuaries

22 June 1920 (1389) regs. est.

Regulations for the Protection of Migratory ... Birds

23 April 1918 (871) regs. est.; 11 May 1920 (977) am.; 31 August 1921

(3164) new regs. est.; 21 August 1922 (1731) am.; 20 March 1923 (484 and 485) am.; 13 August 1923 (1465) am.; 25 August 1923 (1668) am.; 29 June 1925 (1012) new regs. est.; 26 June 1926 (1017) am.; 30 June 1927 (1260) am.; 12 July 1928 (1209) am.; 27 June 1929 (1117) am.

Regulations for the Protection of Game in the NWT

1 May 1918 (1053) regs. est.; 12 March 1920 (533) am.; 20 May 1920 (1088) am.; 11 June 1921 (1878) am.; 10 July 1923 (1234) am.; 22 September 1923 (1862) am.; 12 March 1924 (413) am.; 8 April 1924 (555) am.; 26 April 1924 (646) am.; 7 June 1924 (905) am.; 19 July 1926 (1146) am.; 18 August 1926 (1266) am.; 26 March 1927 (543) am.; 15 June 1927 (1146) am.; 25 January 1929 (113) am.; 22 March 1929 (303) am.; 15 May 1929 (807) new regs. est.; 20 November 1929 (2265) am.; 2 May 1930 (920) am.

WATER

Regulations [Pursuant to the "Dominion Lands Act"] to Govern the Mode of Granting Water Power Rights in the Provinces of Manitoba, Saskatchewan and Alberta in Connection with Dominion Lands

2 June 1909 regs. est.; 8 June 1909 am.; 20 April 1910 am.; 24 January 1911 am.; 6 June 1911 am.; 12 Aug 1911 am.; 9 February 1915 (296) am.

Regulations [Pursuant to the "Dominion Water Power Act"] to Govern the Mode of Granting and Administering Dominion Water Power Rights

31 October 1921 (4034) regs. est.; 10 September 1928 (1666) am.; 3 December 1929 (2367) am.

Regulations Under the "North-West Irrigation Act"

11 October 1894 forms prescribed; 29 April 1895 [irrigation regs. est. entitled: Regulations for the measurement and use of water, the disposal of reservoir sites and right of way for irrigation works, the establishment of gauge rods in streams and in rating flumes of irrigation canals and ditches, and the license and certificates to be used]; 6 April 1896 (1130) am.; 7 July 1896 am.; 8 July 1896 am.; 24 April 1897 am.; 14 July 1897 am.; 17 July 1897 separate regs. est. [entitled: Regulations regarding the use of any natural channel for the carriage of water therein from a reservoir or other source of water supply]; 15 May 1899 [all regs. rescinded]. See also (1898) 61 Victoria c.35 and *An Act respecting Irrigation* [*Irrigation Act*] *R.S.C.* 1906 c.61; (1908) 7-8 Edward VII c.38; (1910) 9-10 Edward VII c 34; (1914) 4-5 George V c.37; (1919) 9-10 George V c.3; (1920) 10-11 George V c.55; (1923) 13-14 George V c.16; *R.S.C.* 1927 c.104

Disposal of School Lands in Connection with Irrigation Works

18 December 1897; 16 May 1899 (621); 30 December 1922 (2665).

Regulations for the Sale of Land Required in Connection With Any System of Irrigation [in Southern Alberta and Saskatchewan]

9 November 1910 regs. est.; 25 Nov. 1910 am.; 6 February 1913 new regs. est.; 20 March 1914 (762) new regs. est.

Reservation of Unappropriated Waters in Alberta

6 September 1919 (1859) reservation est.; 12 April 1921 (1133) am.; 12

October 1921 (3829) am.; 10 July 1923 (1222) am.; 19 June 1925 (900) am.; 6 April 1929 (575) am.; 11 February 1930 (275) am.

Orders in Council Regarding Water in the Railway Belt of British Columbia

23 December 1902; 27 February 1915 (369); 6 June 1918 (1292); 3 November 1919 (2218); 27 June 1921 (2229)

Transfer of Sumas Dyking Lands in British Columbia

21 October 1896; 20 April 1897; 10 July 1923 (1229); 16 May 1925 (766)

Regulations for the Drainage of Dominion Lands in the Provinces of Alberta and Saskatchewan

14 January 1919 (3200) regs. est.; 19 November 1920 (2839) new regs. est.; 17 June 1924 (1009) am.; 14 December 1925 (2150) new regs est.; 15 March 1928 (415) am.; 31 May 1929 (944) am.

Regulations in Regard to Reservoir Sites in Forest Reserves

6 June 1911 regs. est.

Regulations Governing Pollution of Domestic or Municipal Water Supply by Timber Berth Operations

14 December 1916 (3068) regs. est.

APPENDIX II: SELECTED LEGISLATION

This is a presentation of Statutes and Orders in Council, arranged chronologically within selected subject headings. It is intended to serve as a source book in the laws of the period. The laws governing settlement are extensively subdivided for ease of reference to particular subjects or policy initiatives. Limitation of space has mandated a selection of the materials presented, but every effort has been made to set out the laws governing some of the primary subjects of fedral policy during the period so that the development of law over time will be apparent. [*Editor's note: Sections are subdivided by hyphens rather than parentheses.]

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Selected Legislation

SETTLEMENT

Eligibility for Homestead Entry

O.C. 1 March 1871

1. Any person who is the head of a family, or has attained the age of twenty-one years, who is a subject of Her Majesty by birth or naturalization, shall after the first day of May, 1871, be entitled to be entered for one quarter section, or a less quantity of unappropriated public lands, for the purpose of securing a homestead right in respect thereof.

O.C. 25 April 1871

1. Any person who is the head of a family, or has attained the age of twenty-one years, shall, after the first day of May, 1871, be entitled to be entered for one quarter section, or a less quantity of unappropriated public lands, for the purpose of securing a homestead right in respect thereof.

S.C. 1872 35 Victoria c.23 s.33

33. Any person who is the head of a family, or has attained the age of twenty-one years, shall be entitled to be entered for one quarter section or a less quantity of unappropriated Dominion lands, for the purpose of securing a homestead right in respect thereof. (Form A)

S.C. 1874 37 Victoria c.19 s.8-1

8. Section thirty-three of the said hereinbefore first cited Act is hereby amended by striking out the word "twenty-one" in the second line of the said section, and inserting the word "eighteen" in lieu thereof.

S.C. 1876 39 Victoria c.19 s.4

4. The first five lines of section thirty-three of the *Dominion Lands Act* as amended by section eight of the Act of 1874, are hereby repealed and the following substituted therefor:—

Any person, male or female, who is the sole head of a family, or any male who has attained the age of eighteen years, shall be entitled to be entered for one quarter- section, or a less quantity, of unappropriated Dominion lands, for the purpose of securing a homestead right in respect thereof. (Form A)

S.C. 1883 46 Victoria c.17 s.27

27. Any person, male or female, who is the sole head of a family, or any male who has attained the age of eighteen years, shall, on making application in the form A in the schedule to this Act, be entitled to obtain homestead entry for any quantity of land not exceeding one quarter section, and being of the class of land open, under the provisions of this Act, to homestead entry:

S.C. 1897 60-61 Victoria c.29 s.12

12. If, in the case of any woman who, claiming to be the sole head of a family, makes application for a homestead entry, any doubt arises as to the right of such woman to be recognized as the sole head of a family, the Minister may decide from the special circumstances of the case whether such application shall be granted or refused.

S.C. 1908 7-8 Edward VII c.20 s.9

9-1. Every person who is the sole head of a family, or, being a male, has attained the age of eighteen years, and who is a British subject or declares intention to become a British subject, and who makes application in the manner hereinafter provided, shall be entitled to obtain entry for a homestead for an area of available agricultural land, not exceeding one quarter section: Provided that where the area of the homestead quarter-section is from any cause considerably less than the theoretical area of one hundred and sixty acres, the Minister may permit the homesteader to have added to his homestead, from adjoining land, a sufficient area to make up, but not to exceed, one hundred and sixty acres.

9-2. In the case of any woman who, claiming to be the sole head of a family, makes application for entry for a homestead, if any doubt arises as to her status as the sole head of a family, the Minister may decide whether her application shall be granted or refused.

O.C. January 11, 1915

By Order in Council of the 11th of January, 1915, under and in virtue of the provisions of paragraph 4 of section 11 of the *Dominion Lands Act*, 1908, entry for a homestead may be made by a woman on behalf of her husband, when duly authorized in accordance with the existing regulations.

S.C. 1919 (2nd session) 9-10 George V c. 13 s.1

1. Section seven of the *Dominion Lands Act*, chapter twenty of the statues of 1908, is amended by adding the following subsection thereto:—

> 3. Until otherwise ordered by the Governor in Council wherever any parcel or parcels of Dominion Lands become available for entry after having been advertised or posted according to the provisions of this Act and of any regulations thereunder, a period of one office day shall be allowed, immediately following the expiry of the term of advertising or posting, during the office hours of which day the right of making entry for such parcel or parcels of Dominion Lands shall be restricted to any person who at any time during the war has been therein engaged on active service in a military force,—
>
> > a) of Canada—and has served out of Canada; or, wherever he may have served, is, by reason of disability incurred or aggravated as the result of such service, in receipt of a pension; or,
> >
> > b) of His Majesty or of any of His Majesty's Allies—and, being ordinarily resident in Canada when he enlisted in or otherwise became a member of such force, has served thereafter out of Canada, in a theatre of actual war; or
> >
> > c) of His Majesty or of any British Dominion or Colony—and has served out of the country wherein he enlisted or otherwise became a member of such force in a theatre of actual war;
>
> and has been otherwise than dishonourably discharged from such force, or has been permitted to honourably resign or retire therefrom, or, without fault on his part, has been dispensed from further service therein; and the widow of any person who died on active service and who, but for his death, might be a settler as now defined, shall be capable of being a settler in her deceased husband's right; who is present in person at the office of the local agent for the district for the purpose of making entry. An application for entry by any of these persons shall be made, received and dealt with in all respects, except as herein provided, under the provisions of the said Act, as amended, and regulations then in force.

The Minister may make such regulations as he may deem to be necessary for carrying out the provisions of this subsection.

Lands Subject to Homestead Entry

O.C. 1 March 1871

The following lands shall not be the subjects of pre-emption or homestead rights:—

Lands allotted to the Hudson's Bay Company under the terms of the transfer of the North-West Territory to Canada.

Lands reserved for schools.

Wood lands set apart as such for supplying settlers with fuel and fencing.

Portions of the public lands selected as the sites of towns or villages.

Lands actually settled and occupied for the purposes of trade.

Mineral Lands.

Reservation for Inter-Oceanic Railway

At any time after the first day of May, A.D., 1874, the Governor in Council may, subject to then existing rights, withdraw from the operation of the above system land to the width of three full townships on each side of the line finally sanctioned for the Inter-Oceanic Railway, and may also terminate after the same day the free homestead system above provided for.

O.C. 25 April 1871

The following lands shall not be the subjects of pre-emption or homestead rights nor of ordinary sales under these regulations:—

Lands allotted to the Hudson's Bay Company under the terms of the transfer of the North-West Territory to Canada.

Lands reserved for Schools.

Wood lands set apart as such for supplying settlers with building materials, fuel and fencing, and pine lands.

Portions of the public lands selected as the sites of towns or villages.

Lands actually settled and occupied for the purposes of trade.

Mineral lands.

Mill sites.

Reservation for Inter-Oceanic Railway

At any time after the first day of May, A.D. 1874, the Governor in Council may, subject to then existing rights, withdraw from the operation of the above system land to the width of three full Townships on each side of the line finally sanctioned for the Inter-Oceanic Railway, and may also terminate, after the same day, the free home-stead system above provided for.

S.C. 1872 35 Victoria c.23 s.33-18

18. The above provisions relating to homesteads shall only apply to agricultural lands, and shall not be held to apply to lands set apart as timber lands, or to those lands on which coal or minerals are at the time of entry known to exist.

S.C. 1876 39 Victoria c.39 s.14

14. Subsection eighteen of the said section thirty-three is hereby repealed and the following substituted therefor:—

> 18. The above provisions relating to homesteads shall only apply to agricultural lands; that is to say, they shall not be held to apply to lands set apart as timber limits, or as hay lands, or to lands valuable for stone or marble quarries, or to those having water power thereon which may be useful for driving machinery.

S.C. 1883 46 Victoria c.17 s.27-4

4. The privilege of homestead and pre-emption entry shall only apply to surveyed agricultural lands; no person shall be entitled to such entry for land valuable for its timber, or for hay land, or for land on which there is a stone or marble quarry, or coal or other mineral having commercial value, or whereon there is any water power which may serve to drive machinery, or for land which, by reason of its position, such as being the shore of an important harbor, bridge site or canal site, or being either an actual or prospective railway terminus or station, it will be in the public interest to withhold from such entry.

S.C. 1898 61 Victoria c.31 s.3

3. Clause 37 of the said Act is hereby amended by adding the following sub-clause thereto:—

> 2. The Minister may withdraw from general sale and from settlement under the ordinary homestead provisions of this Act, any available Dominion lands, including both odd-numbered and even-numbered sections or parts thereof, in tracts of one or more townships or sufficient part or parts of a township or townships, for associations of settlers who desire to engage in co-operative farming, upon receiving, in the case of each association, an application from ten or more persons who are members thereof,—each of whom as well as every member of the association must be eligible, under the provisions of this Act, to obtain a homestead entry,—stating that they have formed an association for the purpose of engaging in co-operative farming; that for such purpose one or more townships or a part or parts of a township or townships are necessary to be reserved and set aside; that out of such lands, until they have all been entered for by members of the association, each member will be entitled to the privilege of obtaining an entry for a part of the tract so reserved, not exceeding one quarter- section, as his homestead; and that, for the purpose of the association and for the reasons specified in sub-clause 1 of this clause, the members of the association desire to settle together in a hamlet or village within the boundaries of the lands so reserved; and asking that in lieu of the residence and cultivation conditions which a settler has to comply with to obtain letters-patent for the land entered for by him, as a homestead, under the ordinary homestead provisions of this Act, the residence by the settler within the said hamlet or village, for a period of not less than three years within the meaning of this Act, and the cultivation of parcels of land, to be set aside for that purpose by the association, near the village or hamlet, out of the tract so reserved for the association, and the improvement of the remainder of the tract by the association, shall be accepted as sufficient to warrant the Minister in issuing to such settler, or his legal representative, letters-patent for the land so entered for by him, as a homestead: Provided that, before any settler who has obtained entry for a

homestead under this sub-clause, or his legal representative, is entitled to the issue of letters-patent therefor, the value of his residence within the said hamlet or village, and of the out-buildings and other improvements connected therewith, shall be equal at least to the value of the residence, out-buildings, and other improvements of an ordinary homesteader, and that the total value of all improvements and cultivation done to the tract by the members of the association in connection with its scheme of co-operative farming, shall be equal at least to one hundred and fifty dollars, for each member of the association at the date of the settler's application.

S.C. 1908 7-8 Edward VII c.20 s.8

8. All unoccupied surveyed agricultural lands to which this Act applies that are not reserved or that have not been disposed of shall be open to entry for homestead: Provided that no entry for a homestead shall convey any right to salt, coal, petroleum, natural gas, gold, silver, copper, iron or other minerals within or under the land covered by the entry, or any exclusive or other property or interest in, or any exclusive right or privilege with respect to any lake, river, spring, stream or other body of water within or bordering on or passing through the land covered by the entry.

S.C. 1914 4-5 George V c.27 s.1

1. Section 8 of the *Dominion of Lands Act*, chapter 20 of the statutes of 1908, is amended by striking out all the words in the said section before the word "Provided" and substituting therefor the following:—

> 8. Lands mentioned and described in sections 35 and 36 of this Act, or which are withdrawn from the operation of this Act, or that have been disposed of, shall not be open to entry or available for a homestead, for a purchased homestead or pre-emption, but other surveyed lands which are suitable for agriculture and are unoccupied shall be open for entry.

S.C. 1919 9-10 George V c.50 s.7

7. Subsection one of section ten of the said Act is amended by adding thereto the following words:—

> Provided further that no person shall obtain any rights under this section who settles on land reserved for soldier settlement after such land has been so reserved.

S.C. 1925 15-16 George V c.10 s.1

1. Section nine of the *Dominion Lands Act*, chapter twenty of the statutes of 1908, is hereby amended by adding thereto the following subsection:—

> 4. Notwithstanding anything contained in this Act, no person shall be granted entry for lands situate within that part of the provinces of Saskatchewan and Alberta south of the south boundary of Township 16 in the Dominion Lands system of survey unless such person submits evidence satisfactory to the Minister of the Interior that he or she is in permanent residence and conducting farming operations upon a farm of not less than eighty acres distant not more than nine miles in a direct line from the parcel for which entry is desired, exclusive of the width of road allowances crossed in the measurement, or that such person is the father, mother, son, daughter, brother or sister of a settler in permanent residence and conducting farming operations as aforesaid.

Homestead Duties

O.C. 1 March 1871

No patent shall be granted for the land until the expiration of five years from the time of entering into possession of it.

At the expiration of five years, or within two years thereafter, the settler, or his widow, her heirs or devisees, upon proof, to the satisfaction of the Land Officer, that he or they have resided upon or cultivated the land for the five years next after the filing of the affidavit for entry, and upon his, or their affidavit that no part of the land has been alienated, the settler, or his representatives, shall be entitled to a patent for the land.

O.C. 25 April 1871

No patent shall be granted for the land until the expiration of three years from the time of entering into possession of it.

At the expiration of three years, or within two years thereafter, the settler or his widow, her heirs or devisees, upon proof, to the satisfaction of the Land Officer, that he or they have resided upon or cultivated the land for the three years next after the filing of the affidavit for entry, and upon his or their affidavit that no part of the land has been alienated, the settler, or his representatives, shall be entitled to a patent for the land. Provided such patentee is then a subject of Her Majesty by birth or naturalization.

S.C. 1872 35 Victoria c.23 ss. 33-10, 11 & 15

10. No patent shall be granted for the land until the expiration of three years from the time of entering into possession of it except as hereinafter provided.

11. At the expiration of three years the settler or his widow, her heirs or devisees, or, if the settler leaves no widow, his heirs or devisees, upon proof, to the satisfaction of the Local Agent that he, or his widow or his or her representatives as aforesaid, or some of them, have resided upon or cultivated the land for the three years next after the filing of the affidavit for entry, the settler or such claimant shall be entitled to a patent for the land, provided such claimant is then a subject of Her Majesty by birth or naturalization.

15. Any person who has availed himself of the foregoing provisions may, before the expiration of the three years, obtain a patent for the land entered upon by him, including the wood lot, if any, forming an addition to the grant thereof, as hereinafter provided, on paying the Government price thereof at the date of entry, and making proof of settlement and cultivation for not less than twelve months from the date of entry.

S.C. 1874 37 Victoria c.19 ss.8-3 & 4

3. Sub-section eleven of the said thirty-third section of the said Act is hereby so amended as to read as follows:—

> 11. At the expiration of three years the settler or his widow, her heirs or devisees, or if the settler leaves no widow, his heirs or devisees, upon proof to the satisfaction of the local agent, that he or his widow or his or her representatives as aforesaid, or some of them, have (except in the case of entry upon contiguous lands as hereinbefore provided) resided upon and cultivated the land for the three years next after the filing of the affidavit for entry, or in the case of a settler on unsurveyed land, who may, upon the same being surveyed, have filed his application as provided in sub-section five, upon proof, as aforesaid, that he or his widow, or his or their

representatives, as aforesaid, or some of them, have resided upon and cultivated the land for the three years next preceding the application for patent, shall be entitled to a patent for the land, provided such claimant is then a subject of Her Majesty by birth or naturalization:

Provided always, that the right of the claimant to obtain a patent under the said sub-section as amended, shall be subject to the provisions of section fifteen of this Act.

4. Sub-section fifteen of the said thirty-third section is hereby amended by striking out the words "forming an addition to the grant thereof" in the fourth line of the said sub-section, and inserting the words "appertaining to the same" in lieu thereof.

S.C. 1876 39 Victoria c.19 s.9

9. Sub-section eleven of the said section thirty-three is hereby amended by adding thereto the following words: Provided further that, in the case of settlements being formed of immigrants in communities, (such for instance as those of Mennonites or Icelanders,) the Minister of the Interior may vary or waive, in his discretion, the foregoing requirements as to residence and cultivation on each separate quarter- section entered as a homestead.

S.C. 1881 44 Victoria c.16 s.7

7. The two several provisos of sub-section eleven of the said section thirty-four of the said *Dominion Lands Act*, 1879 are hereby repealed, and the following substituted therefor:—

a) Provided that the right of the claimant to obtain a patent, under the said sub-section as amended, shall be subject to the provisions of section fifteen of this Act:

b) Provided also that, in the case of settlements being formed of immigrants in communities, the Minister of the Interior, in his discretion, may vary or waive altogether the foregoing requirements as to residence and cultivation on each separate quarter-section entered as a homestead; and—

c) Provided further, that when a certain number of homestead settlers other than immigrants, embracing not less than twenty families, with a view to greater convenience in the establishment of schools, churches &c., ask to be allowed to settle together in a hamlet or village, the Minister of the Interior may, in his discretion, vary the foregoing requirements as to residence, but not as to the cultivation of each separate quarter-section entered as a homestead.

S.C. 1884 47 Victoria c.25 s.2

2. The following sub-clause is added to clause thirty-three of the said Act:—

6. In addition to the cases hereinbefore mentioned, any person claiming a patent for a homestead, or for a homestead and pre-emption, shall be entitled thereto, upon proving that he has erected upon his homestead a habitable house and has *bona fide* resided therein for not less than three months next prior to the date of his application for his patent; that for the period between the time within which, by clause thirty-one of this Act, it is provided that a homesteader shall perfect his entry, and the commencement of his said three months residence upon his homestead, he has been *bona fide* resident within a radius of two miles from his homestead quarter-section; that within the first year after the date of this homestead

entry he had broken and prepared for crop not less than ten acres of his homestead quarter section; that within the second year he had cropped the said ten acres and broken and prepared for crop not less than fifteen acres additional, —making not less than twenty-five acres; and that within the third year after the date of his homestead entry, he had cropped the said twenty-five acres and broken and prepared for crop not less than fifteen acres additional, —making in all not less than twenty-five acres of the said homestead cropped, and fifteen acres additional thereof broken and prepared for crop, within three years of the date of perfecting his homestead entry; and the residence described in this sub-clause shall be sufficiently fulfilled if the applicant has not been absent from his residence for more than six months in any one year.

S.C. 1886 49 Victoria c.27 s.5-2 and s.6

2. The following is hereby added to the said clause thirty-three as sub-clause seven thereof:—

7. Any person claiming a patent under a homestead entry or under a homestead and pre-emption entry shall also be entitled thereto upon proving to the satisfaction of the Commissioner of Dominion Lands or the Dominion Lands Board,—

a) That he perfected his homestead entry by commencing the cultivation of the homestead within six months from the date of his homestead entry, or if the entry was obtained on or after the first day of September in any year, before the first day of June following;

b) That within the first year after the date of his homestead entry he broke and prepared for crop not less than five acres of his homestead quarter section;

c) That within the second year he cropped the said five acres, and broke and prepared for crop not less than ten acres in addition, making not less than fifteen acres in all;

d) That he erected a habitable house upon his homestead before the expiration of the second year after his homestead entry, and has *bona fide* resided therein and has cultivated the land for three years next prior to the date of his application for his patent;

e) That at the commencement of the third year after the date of his homestead entry, or previously, he commenced the residence on his homestead required by the next preceding paragraph of this sub-clause.

6. Every person who has obtained a homestead entry, and who proposes to apply for a patent for such homestead, shall give six months notice in writing to the Commissioner of Dominion Lands of his intention to make such application, and shall produce evidence to the officer who is authorized to receive the application, that such notice has been duly given.

S.C. 1891 54-55 Victoria c.24 ss.2, 3 & 4

2. The paragraph lettered (a) of sub-clause five of clause thirty-eight of the said Act, as amended by section three of the Act passed in the session held in the fiftieth and fifty-first years of Her Majesty's reign, chapter thirty-one, is hereby repealed, and the following substituted therefor:—

a) Any person obtaining homestead entry for the land included in such forfeited pre-emption entry shall be required to perfect his entry by erecting a habitable house thereon, and commencing actual residence in the said house and cultivation of the land within six months of the date of such homestead entry, and shall be required to continue such residence for at least six months in each year, and to maintain such cultivation during each year of the three years next succeeding."

3. Sub-clause six of clause thirty-eight of the *Dominion Lands Act* is hereby repealed, and the following substituted therefor:

6. In addition to the cases hereinbefore mentioned, any person claiming a patent under a homestead entry, or under a homestead and pre-emption entry, shall be entitled thereto, upon proving,—

a) That he has erected upon his homestead a habitable house, and has *bona fide* resided therein for not less than three months at any time prior to the date of his application for his patent and subsequent to the performance of the other duties set forth in this sub-clause;

b) That between the time within which, by clause thirty-six of this Act, it is provided that a person who has obtained a homestead entry shall perfect his entry and the date of his application for a patent he has *bona fide* resided within a radius of two miles from his homestead quarter section or upon the said quarter section;

c) That within the first year after the date of his homestead entry he broke and prepared for crop not less than ten acres of his homestead quarter section;

d) That within the second year he cropped the said ten acres and broke and prepared for crop not less than fifteen acres in addition, making not less than twenty-five acres;

e) That within the third year after the date of his homestead entry he cropped the said twenty-five acres and broke and prepared for crop not less than fifteen acres in addition, making in all not less than twenty-five acres of the said homestead cropped, and fifteen acres in addition broken and prepared for crop, within three years of the date of his homestead entry;

And the provisions of this sub-clause as to residence shall be sufficiently fulfilled if the applicant has not been absent from his residence for more than six months in any one year.

4. Sub-clause seven of clause thirty-eight of the said Act is hereby repealed, and the following substituted therefor:—

7. Any person claiming a patent under a homestead entry or under a homestead and pre-emption entry shall also be entitled thereto upon proving to the satisfaction of the Commissioner of Dominion Lands or the Dominion Lands Board,—

a) That he perfected his homestead entry by commencing the cultivation of the homestead within six months from the date of his homestead entry, or, if the entry was obtained on or after the first day of September in any year, before the first day of June following;

b) That within the first year after the date of his homestead entry he broke and prepared for crop not less than five acres of his homestead quarter section;

c) That within the second year he cropped the said five acres, and broke and prepared for crop not less than ten acres in addition, making not less than fifteen acres in all;

d) That he erected a habitable house upon his homestead before the expiration of the second year after his homestead entry, and has *bona fide* resided therein and has cultivated the land for three years prior to the date of his application for his patent;

e) That at the commencement of the third year after the date of his homestead entry, or previously, he commenced the residence on his homestead required by the next preceding paragraph of this sub-clause:

Provided, however, that an application for a homestead patent may be accepted and approved and a patent may be issued in any case in which all the provisions of this sub-clause have been complied with, except as to cultivation for the first two years:

And the provisions of this sub-clause as to residence shall be sufficiently fulfilled if the applicant has not been absent from his residence for more than six months in any one year."

S.C. 1897 60-61 Victoria c.29 s.4

4. Clause thirty-eight of the said Act is hereby further amended by adding the following subsections thereto:—

9. If a settler has obtained a patent for his first homestead, or a certificate for the issue of such patent countersigned in the manner prescribed by this Act, and has obtained entry for a second homestead, or if any son of such settler, who has attained the age of eighteen years, has obtained entry for a homestead, the requirements of this Act as to residence prior to obtaining patent may be satisfied, in the case of the parent, by residence upon his first homestead, and, in the case of a son, by residence upon the parent's homestead.

10. Notwithstanding anything contained in this Act, any person claiming a patent for land for which he has made entry as a homestead, or as a pre-emption, shall be entitled to obtain such patent upon providing to the satisfaction of the Minister, or of the Commissioner of Dominion Lands, or of the Dominion Lands Board,—

a) That he has fulfilled three year's residence upon the land which is the subject of his entry, if the land is a homestead, and upon his homestead if the land is pre-emption, in accordance with the provisions as to three years' residence upon a homestead which are contained and explained in this Act;

b) That in each of such years he has cultivated not less than one acre of such land, and that at the date of his application the whole area so cultivated has been substantially fenced;

c) That he has at least forty head of cattle upon such land;

d) That he has erected on such land, or upon land occupied by him in the vicinity, stables and outhouses sufficient to winter at least forty head of cattle.

S.C. 1898 61 Victoria c.31 ss. 6 & 7

6. Sub-clause 9 of the said clause 38, as amended by section 4 of chapter 29 of the statues of 1897, is hereby repealed and the following is substituted therefor:—

9. If a settler has obtained a patent for his first homestead, or a certificate for the issue of such patent countersigned in the manner prescribed by this

Act, and has obtained entry for a second homestead, the requirements of this Act as to residence prior to obtaining patent may be satisfied by residence upon the first homestead.

a) If the father (or the mother, if the father is deceased) of any person who is eligible to make a homestead entry under the provisions of this Act, resides upon a farm in the vicinity of the land entered for by such person as a homestead, the requirements of this Act as to residence prior to obtaining patent may be satisfied by such person residing with the father or mother; and in the event of the death of the father or mother before the person is entitled to his patent, the requirements of this Act as to residence prior to obtaining patent may be satisfied by such person continuing to reside on the property which was the residence of the father or mother, or by removing to a residence upon his own homestead.

7. Sub-clause 10 of the said clause 38, as amended by section 4 of chapter 29 of the statutes of 1897, is hereby amended by striking out the words "or as a pre-emption" in the third line thereof, and by substituting for paragraph a) thereof the following:—

a) That he has fulfilled three year's residence within the meaning of this clause.

S.C. 1900 63-64 Victoria c.20 s.2

2. Sub-clause 9 of the said clause 38 of the said Act, as enacted by section 6 of chapter 31 of the statues of 1898, is amended by adding thereto the following paragraph:—

b) If the settler has his permanent residence upon farming land owned by him in the vicinity of his homestead, the requirements of this Act as to residence may be satisfied by residence upon the said land.

S.C. 1901 1 Edward VII c.20 ss. 3-1, 2, 3 & 4

3-1. Subclause 9 of clause 38 of the said Act, as enacted by section 6 of chapter 31 of the statutes of 1898, is amended by adding after the words "first homestead" in the sixth line of such subclause, the words "if the second homestead is in the vicinity of the first homestead."

3-2. The paragraph lettered (b) added to the said subclause 9 of clause 38 of the said Act by section 2 of chapter 20 of the statues of 1900, is repealed.

3-3. Subclause 10 of the said clause 38, as enacted by section 4 of chapter 29 of the statutes of 1897, and as amended by section 7 of chapter 31 of the statutes of 1898 is repealed, and the following is substituted therefor:—

10. Notwithstanding anything contained in this Act, any person claiming a patent for land for which he has made entry as a homestead shall be entitled to obtain such patent, upon proving to the satisfaction of the Minister or of the Commissioner of Dominion Lands:

a) That he has fulfilled three years' residence within the meaning of this clause;

b) That he has at least twenty head of cattle upon such land or land occupied by him in the vicinity, and that he is the actual owner of such cattle;

c) That he has erected on such land, or upon land occupied by him in the vicinity, stables and outhouses sufficient to winter at least twenty head of cattle.

3-4. The following subclause is added to the said clause 38:—

11. If the settler has his permanent residence upon farming land owned by him in the vicinity of his homestead, the requirements of this Act as to residence may be satisfied by residence upon the said land.

S.C. 1908 7-8 Edward VII c.20 ss. 16-18, 24, 28-1, 2, 3 & 5

16. Every entrant for a homestead shall, except as hereinafter otherwise provided, be required, before the issue of letters patent therefor, a) to have held the homestead for his own exclusive use and benefit for three years from the date of entry, b) to have resided thereon at least six months in each of three years from the date of entry, or the date of commencement of residence, c) to have erected a habitable house thereon, d) to have cultivated such an area of land in each year upon the homestead as is satisfactory to the Minister, and e) to be a British subject.

17. The period fixed by this Act for the performance of the requirements prescribed for obtaining letters patent for a homestead shall, in the case of an entrant for a homestead on lands occupied by him before survey thereof, be reckoned from the date upon which he entered into occupation of the land.

18. Permanent residence by an entrant upon a farm of an area of at least eighty acres, situate within a distance of nine miles from his homestead, in a direct line, exclusive of the width of road allowances crossed in the measurement, and owned solely and occupied by him, or permanent residence on a farm of that area and situate, owned solely and occupied by his father, mother, son, daughter, brother or sister, and, in the event of the death of such owner or occupant, continued permanent residence on such farm shall be accepted as residence upon the homestead.

24. Notwithstanding anything in this Act, any persons who previously thereto were allowed, under the provisions of section 121 of chapter 55 of the *Revised Statutes*, 1906, and section 3 of chapter 31 of the statutes of 1898, entries for homesteads acquirable while living in hamlets or while engaged in cooperative farming, or who, under the provisions of paragraph b) of section 133 of chapter 55 of the Revised Statutes, 1906, were allowed entries, subject to the substitution of cattle raising for cultivation, shall, on satisfactory proof of the fulfilment of the conditions imposed under the said provisions, be entitled to letters patent for their homesteads.

Purchased Homestead

28-1. Any person who—

obtains a homestead entry under the provisions of this Act, but, owing to the absence of available land adjoining this homestead, is prevented from exercising his right of pre-emption under the next preceding section, or,

has obtained entry for a homestead under the provisions of chapter 55 of the *Revised Statutes*, 1906, or of any previous Act in that behalf, and is prevented from obtaining a pre-emption under the preceding section owing to the absence of available land adjoining his homestead, or,

has obtained entry for a homestead prior to the passing of this Act for which he has received or become entitled to letters patent, or,

has otherwise exhausted his right to entry for a free homestead under the provisions of this Act,

may, after the issue of patent for his homestead, or upon completing the requirements requisite to obtaining letters patent therefor to the satisfaction of the agent of Dominion Lands for the district, as provided by this Act, or by regulation or order made thereunder, obtain entry as a purchased homestead for any available quarter-section open for entry in the manner set forth in this section; and upon the payment of a fee of ten dollars, for which a receipt shall be issued in the form D, such quarter-section shall be entered in the books of the land office and in the returns of the agent as having been so entered by such person, and after he has—

a) resided upon the quarter-section so entered for six months in each of the three years subsequent to the date of such entry,

b) cultivated fifty acres thereon,

c) erected a house of a value of at least three hundred dollars thereon, and

d) paid for such land on the terms hereinafter set forth, he shall be entitled to letters patent for the land so entered for:

Provided that entry for a purchased homestead may only be acquired within such townships as may be designated for that purpose by order of the Governor in Council within the following tract:

Commencing where the west line of range twenty-six west of the fourth principal meridian intersects the international boundary; thence east along the international boundary to its intersection with the Minneapolis, St. Paul and Sault Ste. Marie Railway; thence northwest along the said railway line to its junction with the main line of the Canadian Pacific Railway; thence west along the Canadian Pacific Railway to the third principal meridian; thence north along the third principal meridian to the north line of township forty-four; thence west along the north line of township forty-four to the Calgary and Edmonton Railway; thence south along the Calgary and Edmonton Railway to its intersection with the west line of range twenty-six west of the fourth principal meridian; thence south along the west line of the said range twenty-six to the international boundary:

Provided that when the conditions obtaining in any township are such as to make the requirement of fifty acres of cultivation excessive, the Governor in Council may fix a lesser area in respect of that township.

28-2. If the land entered under this section is situate within a distance of not more than nine miles from the entrant's homestead, in a direct line, exclusive of the width of road allowances crossed in the measurement, residence upon the homestead may be accepted as residence on the quarter-section.

28-3. No person who has received a patent for a purchased homestead under this section shall be entitled to obtain another entry for a purchased homestead.

28-5. The price payable for land under this section shall be three dollars an acre, and such price shall be payable one-third at the time the entry is made and the balance in five equal annual instalments; and interest shall be payable at the rate of five percent per annum at the end of each year from the date of the entry, on the amount remaining unpaid at the time: Provided that, on the completion of the requirements under this section for obtaining letters patent for such purchased homestead, payment in full may be made therefor and letters patent therefor may thereupon issue.

S.C. 1914 4-5 George V c.27 ss.4-1 & 14-1 - 14-7

4-1. Paragraph c) subsection 1 of section 28 of the said Act is amended by inserting after the word "thereon" in that paragraph the words "or upon his homestead".

14-1. Notwithstanding anything contained in the said Act, if by a report from a homestead inspector it is shown that any quarter-section does not contain arable land to the extent required to earn patent under the said Act, any person, or in the event of his death his legal representative, claiming patent as a homestead, pre-emption or a purchased homestead for such land, who has complied with all the conditions of his entry thereof except the condition as to the cultivation of the land, shall be entitled to such patent, if when furnishing the evidence prescribed by the said Act to be furnished with his application for patent he proves to the satisfaction of the Minister, as hereinafter provided, that in lieu of the cultivation provided to be complied with by the entrant or his legal representative, under the provisions of section 16 of this Act in the case of a homestead, of paragraph c) of subsection 1 of section 27 of the said Act, in the case of a pre-emption, and of paragraph b) of subsection 1 of section 28 of this Act, in the case of a purchased homestead, he has had upon the homestead or purchased homestead, as the case may be, stock solely owned by him during the whole of the first year of the performance of duties for the homestead or purchased homestead, to the number of at least five head of cattle; during the whole of the second year to the number of at least ten head of cattle; and from and after the expiration of the second year up to the date of his application for patent to the number of at least sixteen head of cattle; and in the case of a pre-emption the entrant shall be required to show, when making application for patent, that he has continued to own his homestead and that he has had upon the land stock to the number of at least twenty head in the fourth and fifth years of the performance of duties, and from and after the expiration of the fifth year up to the date of application for patent at least twenty-four head of stock: Provided further that any person who becomes entitled to patent for a homestead under this section may secure at the same time patent for the appurtenant pre-emption upon paying in full for such pre-emption and on submitting proof that he has had upon such homestead, or on the pre-emption or on both, stock to the number of at least five head of cattle during the first year of the performance of duties for such homestead and pre-emption; during the whole of the second year stock to the number of at least ten head of cattle; and after the expiration of the second year up to the date of his application for patent, to the number of at least twenty-four head of cattle; and that he has fully complied with the other requirements of this section up to the time of making proof and tendering payment.

14-2. The term "stock" in this section includes "cattle" as that term is defined in the next succeeding paragraph, and also sheep and hogs; but where the latter are kept instead of cattle ten sheep or ten hogs, or ten sheep and hogs must be kept or be counted as only equivalent to but one head of cattle.

14-3. The term "cattle" in this section means cows or bulls, or cows and bulls and their young, and horses, male or female, or male and female and their young.

14-4. All stock shall be kept on the homestead, pre-emption or purchased homestead, as the case may be, either for summer grazing or for winter feeding.

14-5. Substantial buildings for the accommodation of the whole number of stock to be kept in any year, as hereinbefore provided, shall be erected and maintained to the satisfaction of the Minister during the whole period such stock is to be kept and solely owned by the applicant for patent as hereinbefore specified; such buildings shall in the case of an ordinary homestead be erected upon the homestead itself, in the case of a pre-emption such buildings shall be erected upon such pre-emption or the appurtenant homestead, and in the case of a purchased homestead, the said buildings shall be erected upon such purchased homestead, or upon the entrant's free homestead if his residence has been performed thereon under section 28 of the said Act.

14-6. The entrant or his legal representative shall furnish to the Minister a statutory declaration duly made and completed according to law, promptly after the expiration of each year during the period that he has kept stock upon his land, as to the numbers thereof he has kept thereon during such year or period and that they are and have been during that year or period, as specified in the statutory declaration, solely owned by him.

14-7. The whole quarter-section of land entered for shall be enclosed by a substantial fence to the satisfaction of the Minister: Provided also that no patent shall be issued for a homestead, pre-emption or purchased homestead upon which stock is kept in lieu of compliance with the condition of the entry for such homestead, pre-emption or purchased homestead as to the cultivation thereof until a report by a homestead inspector has been filed in the Department of the Interior showing that the provisions of this section have been complied with.

S.C. 1914 4-5 GeorgeV c.28 s.1

1-1. Notwithstanding anything in the *Dominion Lands Act*, chapter 20 of the statutes of 1908, or any other statute, any alien, who has not resided in the British Dominions or been in the service of the Crown for the period necessary for naturalization, shall be entitled to obtain letters patent for a homestead in the same manner as if he were a British subject: Provided that he satisfy the Minister of the Interior that in all respects save such period of residence or service he is qualified to be naturalized, and declare upon oath his intention to be so naturalized as soon as he has completed such period of residence or service.

1-2. This Act shall come into operation on the first day of January, nineteen hundred and fifteen.

S.C. 1918 8-9 George V c.19 ss.4, 5, 11, 13, 26 & 28-2

4. Section sixteen of the said Act is amended by repealing the words "from the date of entry" in the fourth line thereof, and the words "from the date of entry, or the date of commencement of residence" in the sixth and seventh lines thereof.

5. Section seventeen of the said Act is repealed and the following is substituted therefor:—

> 17. The period fixed by this Act for the performance of the residence and other requirements prescribed for obtaining letters patent for a homestead may be computed as follows: a) from date of entry, b) from date of commencement of residence either before or after date of entry, c) six months' residence in each of three calendar years, d) six months' residence in each of three years, either homestead years or calendar years. e) The date of commencement of the various terms of residence may be changed from

year to year as may appear most to the advantage of the settler in dealing with his application for patent:

Provided that where an entry for a homestead is cancelled and re-entry is granted to the homesteader's wife, such homestead may be deemed to have been held by the wife of the entrant as aforesaid for her sole use and benefit during any period throughout which such homestead was held by her husband for his sole use and benefit.

Provided also that in other cases where there is a doubt as to whether a homestead was held by the entrant for his sole use and benefit during any period either before or after date of entry, the Minister shall decide as to whether the homestead was so held by the entrant during any such period.

11. Subsection one of section twenty-eight of the said Act is amended by striking out the last four lines thereof and substituting the following proviso therefor:—

Provided that when the surface of the purchased homestead is of a wooded, rocky, flooded or broken character, the Minister may in his discretion reduce the area of cultivation which is required under this subsection.

13. Section thirty-two of the said Act is hereby amended by adding thereto the following proviso:—

Provided also that in case an entrant for a homestead, who has faithfully and to the best of his ability, endeavoured to perform the duties required of him, but who from some unpreventable cause or physical incapacity, has failed to complete those duties, or who through some technicality is held to have failed in fulfilling the requirements of this Act, but yet has an equitable claim entitling him, in the opinion of the Minister, to favourable consideration, the Minister may sell the homestead to the entrant at a price to be not less than one dollar an acre to be fixed by the Minister.

26. Subsections one and five of section fourteen of the Act to amend the *Dominion Lands Act*, chapter twenty-seven of the statutes of 1914, are repealed and the following are respectively substituted therefor:—

14-1. Notwithstanding anything to the contrary in the said the *Dominion Lands Act*, if a report from a homestead inspector shows that a quarter-section held as a homestead, or purchased homestead, or a half-section held as a homestead and pre-emption, does not contain arable land to the extent necessary to fulfil the requirements of the said Act with respect to cultivation, the person holding entry for such land shall be entitled to patent therefor on furnishing evidence that he has fulfilled the other conditions attached to his entry and proving to the satisfaction of the Minister that, in lieu of cultivation, he has complied with the requirements with respect to stock as hereunder provided.

In the case of a homestead or purchased homestead, the entrant shall show that he has had upon such land stock solely owned by him, during the first year of performance of duties to the number of five head; during the second year to the number of ten head, and during the third year and in each of the subsequent years to the date of his application for patent, to the number of sixteen head.

In the case of a pre-emption, the entrant shall be required to show when making application for patent that he has had upon his homestead or pre-emption, or on both, stock to the number of at least five head, during the first year of performance of duties for such homestead and pre-emption; during the second year stock to the number of at least ten head, and after the expiration of the second year and up to the date of his application for patent for his pre-emption, stock to the number of at least twenty-four head, and that he has complied to the satisfaction of the Minister with the other requirements of this Act.

In the case of a quarter-section having a smaller area than one hundred and sixty acres, the number of stock required to be owned and kept thereon may be proportionately reduced.

14-5. Substantial buildings for the accommodation of the whole number of stock to be kept in any year, as hereinbefore provided, shall be erected and maintained to the satisfaction of the Minister during the whole period such stock is to be kept and solely owned by the settler as hereinbefore specified; and such buildings shall be erected upon the homestead, pre-emption, purchased homestead, or upon any land upon which the settler is entitled to reside under the provisions in that behalf contained in this Act.

28-2. The privilege of purchased homestead entry as provided for by section twenty-eight of chapter twenty of the statutes of 1908, as amended by section four of chapter twenty-seven of the statutes of 1914, is hereby withdrawn.

S.C. 1919 (2nd session) 10 George V c.13 s.3

3. Subsection one of section sixteen of the said Act, as amended by section four of chapter nineteen of the statutes of 1918, is further amended by adding thereto the following proviso:—

Provided that where the holder of an entry on Dominion Lands has been on active service with the military, naval or air forces of His Majesty or any of His Majesty's Allies during the said war, and such service is credited to him as performance of residence duties in connection with his entry, it shall not be necessary for such entrant to erect a house upon the land held by him where his term of service in the said forces is sufficient to fulfil the requirements of this Act as to a residence.

Pre-emption

O.C. 1 March 1871

Pre-emption Rights

Any person being the head of a family, or a single man above the age of twenty-one years, being a subject of Her Majesty, by birth or naturalization who has made, or shall hereafter make, a settlement in person on the public lands, and who has inhabited and improved the same, and who has erected or shall erect a dwelling thereon, may have himself entered with the Land Officer of the Division in which such land is, any number of acres not exceeding 160, or a quarter section of land, to include the residence of the claimant, and obtain a patent therefor, upon paying to the Crown the price of such lands.

When two or more persons have settled on the same quarter section of land, the right of pre-emption shall be in him who made the first settlement.

Questions as to the right of pre-emption arising between different settlers, shall be settled by the Land Officer of the Division in which the land is situated.

Before the right of pre-emption may be exercised, proof of settlement and improvement shall be made to the Land Officer by the affidavit of the claimant and the testimony of two credible witnesses.

All assignments and transfers of pre-emption rights prior to the issuing of the patent are null and void.

Before any person shall be allowed to be entered for lands and obtain the right of pre-emption in respect thereof, he shall make oath before the Land Officer of the Division in which the land lies that he has never had the benefit of any right of pre-emption under these regulations—that he has not settled on and improved the lands with a view to selling them on speculation, but in good faith for his own use and benefit.

The person who receives the oath shall file a certificate thereof in the Land Office for the Division, which shall be evidence that such oath was duly administered. In case a person entitled to claim pre-emption rights dies before giving effect to his claim, the representatives of the deceased person may complete the same. But the entry in such case shall be made in favour of "the Heirs" of the deceased person, and the patent shall issue and the title shall enure to the heirs as if their names had been specially mentioned.

O.C. 25 April 1871

Any person being the head of a family, or a single man above the age of twenty-one years, who has made or shall hereafter make a settlement in person on the public lands, and who has inhabited and improved the same, and who has erected or shall erect a dwelling thereon, may have himself entered with the land officer of the Division in which such land is, for any number of acres not exceeding 160 or a quarter section of land, to include the residence of the claimant, and, being a subject of Her Majesty by birth or naturalization, may obtain a patent therefor, upon paying to the Crown the price of such lands.

S.C. 1874 37 Victoria c.19 s.8-2

2. The sub-section numbered one of the said thirty-third section is hereby repealed and the following substituted therefor:—

> 1. The entry of a person for a homestead right shall entitle him to receive at the same time therewith an interim entry for any adjoining quarter section then unclaimed, and such interim entry shall entitle such person to take and hold possession and cultivate the same, (but not to cut wood thereon for sale or barter) in addition to his homestead, and at the expiration of the period of three years or upon the sooner obtaining a patent for the homestead under the fifteenth sub-section of this section, to purchase the said adjoining quarter section at the Government price, but the right to such interim entry shall cease and be forfeited together with all improvements on the land upon any forfeiture of the homestead right under the fourteenth sub-section of this section; and the provisions of this section applicable to homestead rights shall apply to land for which an interim entry is obtained except as herein varied:
>
> Provided always, that the right to an interim entry given by the said sub-section as so amended shall not belong to any settler brought in under the provisions of sections fourteen and fifteen of this Act.

S.C. 1876 39 Victoria c.19 s.5

5. The sub-section substituted by the Act of 1874 for subsection one of the said thirty-third section of the *Dominion Lands Act,* is hereby repealed, and

the following substituted therefor as sub-section one of the said thirty-third section:—

> 1. The entry of a person as aforesaid for a homestead right shall entitle him to receive at the same time therewith an entry for any adjoining quarter-section then unclaimed, and such entry shall entitle such person to take and hold possession of and cultivate such quarter-section in addition to his homestead, but not to cut wood thereon for sale or barter, and, at the expiration of the period of three years, or upon the sooner obtaining a patent for the homestead under the fifteenth sub-section of this section, shall entitle him to a pre-emption of the said adjoining quarter-section at the Government price of one dollar per acre; but the right to claim such pre-emption shall cease and be forfeited, together with all improvements on the land, upon any forfeiture of the homestead right under this Act:
>
> Provided always, that the right to a pre-emption entry as above given shall not belong to any settler brought in under the provisions of sections fourteen and fifteen of the said Act of 1874.

S.C. 1879 42 Victoria c.31 s.34-1

1. The entry of a person as aforesaid for a homestead right shall entitle him, on payment of a fee equal in amount to that hereinafter prescribed for such homestead entry, to receive at the same time therewith an entry for any adjoining one hundred and sixty acres, or less quantity, of Dominion land then unclaimed and such entry shall entitle such person to take and hold possession of and cultivate such land so entered in addition to his homestead, but not to cut wood thereon for sale or barter, and, at the expiration of the period of three years, or upon the sooner obtaining a patent for the homestead under the fifteenth sub-section of this section, shall entitle him to a pre-emption of the said land so entered at the Government price of one dollar per acre; but the right to claim such pre-emption shall cease and be forfeited, together with all improvements on such land, upon any forfeiture of the homestead right under this Act.

S.C. 1883 46 Victoria c.17 ss.27-2 & 33-5

2. Such person shall also, in connection with such homestead entry, be entitled to the privilege of obtaining at the same time, but not at a later date, a pre-emption entry for an adjoining unoccupied quarter-section or part of a quarter-section of land of the said class:

5. And if, in connection with the homestead entry, the settler has heretofore obtained, or hereafter obtains, a pre-emption entry in accordance with the provisions of this Act, he shall, on becoming entitled to a patent for his homestead, be also entitled to a patent for the land included in such pre-emption entry, on payment of the price fixed in accordance with the provisions of this Act by the Governor in Council; but such pre-emption right, if not exercised and payment made within six months after the settler shall have become entitled to claim a patent under his homestead entry, shall be forfeited, and such pre-emption shall not thereafter be open to homestead entry without the consent of the Minister of the Interior.

[NOTE: Discontinued in 1890. See: Essay p. 26 and fn. 114]

S.C. 1908 7-8 Edward VII c.20 s.27

Pre-emption

27-1. A person who—

obtains entry for a homestead under this Act and continues to own and to reside upon the land included therein, and does not hold, or has not assigned his right to, or has not received patent for a pre-emption under this or any previous Act, or has obtained entry for a homestead under the provisions of chapter 55 of the Revised Statutes, 1906, or any previous Act in that behalf, and continues to own the land included therein and does not hold, or has not assigned his right to, or has not received patent for a pre-emption under this or any previous Act.

may pre-empt any available quarter-section lying alongside his homestead, or separated therefrom by only a road allowance, and, upon the payment of a fee of ten dollars, such quarter-section shall be entered in the books of the land office and in the returns of the agent as a pre-emption appertaining to the homestead; and the agent shall issue a receipt for the said fee in the form D; and upon—

a) completing the requirements requisite to obtaining letters patent for his homestead;

b) residing on his homestead or on the pre-emption for at least six months in each of six years subsequent to the date of entry for his homestead;

c) cultivating, in addition to such cultivation as he may be required to make on his homestead, fifty acres either on his homestead or on the pre-emption, and

d) paying for the pre-emption on the terms hereinafter set forth,

the entrant shall be entitled to letters patent for such pre-emption;

Provided that entry for a pre-emption may only be acquired within such townships as may be designated for that purpose by order of the Governor in Council within the following tract:—

Commencing where the west line of range twenty-six west of the fourth principal meridian intersects the international boundary; thence east along the international boundary to its intersection with the Minneapolis, St. Paul and Sault Ste. Marie Railway; thence northwest along the said railway line to its junction with the main line of the Canadian Pacific Railway; thence west along the Canadian Pacific Railway to the third principal meridian; thence north along the third principal meridian to the north line of township forty-four; thence west along the north line of township forty-four to the Calgary and Edmonton Railway; thence south along the Calgary and Edmonton Railway to its intersection with the west line of range twenty-six west of the fourth principal meridian; thence south along the west line of the said range twenty-six to the international boundary: Provided also that this right to obtain entry for a pre-emption shall not apply to any township in which an area of eight square miles or more has been accepted by any railway company as part of its land grant:

Provided further that, when conditions obtaining in any township are such as to make the requirements of fifty acres of cultivation excessive, the Governor in Council may fix a lesser area in respect of that township.

27-2. Application to pre-empt shall be in the form A, and shall be supported by affidavit in the form B; and the provisions of section 11 of this Act as to the time and place of making application for entry for a homestead, and as to the making of application to a sub-agent shall, with necessary changes, apply to the making of an application to pre-empt; and when the application is made to a sub-agent he shall give an interim receipt for the fee in the form F.

27-3. The price payable for land under this section shall be three dollars an acre, and such price shall be payable one-third on the expiration of three years from the date of the receipt for the pre-emption fee, and the balance in five equal annual instalments; and interest shall be payable at the rate of five per cent per annum at the end of each year from the date of the said receipt on the amount remaining unpaid at the time: Provided that, on the completion of the requirements under this section for obtaining letters patent for a pre-emption, payment in full may be made for the same and letters patent therefor may thereupon issue.

27-4. An entrant for a pre-emption shall, pending the issue of letters patent, have the same rights in and to the land pre-empted as are conveyed by an entry for a homestead under this Act, and the agent's receipt for the fee in either of the forms D or E shall be a certificate of entry and evidence of such rights.

27-5. The provisions contained in sections 7 and 8 of this Act as to what lands shall be open to homestead entry, in section 9 as to who shall be entitled to homestead entry, in section 11 as to application for homestead entry, in sections 13 and 15 as to the abandonment and cancellation of homestead entry, in sections 19 and 20 as to the issue of patent in the case of an entrant for a homestead dying or becoming insane or mentally incapable, and in section 25 as regards the issue of patent for the homestead, shall, with necessary changes, apply to a pre-emption for which entry has been obtained under the provisions of this section.

27-6. In the event of two or more conflicting applications being received for entry for the same pre-emption, the priority of date of the homestead entry receipt shall govern, and the person holding the first homestead entry receipt shall have the first right to obtain entry for the pre-emption, provided his homestead entry is in good standing at the time; if his homestead entry is not in good standing, the person holding the next homestead entry receipt, whose entry is in good standing at the time, shall have the right to enter for the pre-emption.

27-7. If an entrant for a pre-emption fails to fulfil in any year the requirements of this Act in respect to his homestead or his pre-emption, the Minister may cancel the pre-emption entry and, in his discretion, cause to be refunded any moneys paid on account thereof.

27-8. Failure on the part of an entrant for a pre-emption to apply for letters patent therefor within a period of eight years from the date of entry shall render his right thereto liable to forfeiture on the order of the Minister.

S.C. 1914 4-5 Geo.V c.27 ss.2 & 3

2. Subsection 1 of section 27 of the said Act is hereby amended by inserting immediately after the word "pre-emption" at the end of the thirty-second line thereof, the following proviso:—

1. Provided that in any case where the residence in connection with his homestead of an entrant for a pre-emption has not been upon his homestead but has been upon other lands, namely, upon a farm of the area and

owned and occupied as provided in section 18 of this Act, the residence of such entrant, in connection with his pre-emption during three years only of the six years specified in paragraph b) of this subsection, shall be in a habitable house, either upon the homestead or the pre-emption, but not elsewhere:

Provided also that upon proof being furnished by the holder of a homestead and pre-emption that he has complied with the conditions of this Act in order to earn patent for the said homestead, he shall be entitled to receive patent for the pre-emption upon tendering the amount of the purchase price in full, together with accrued interest, if any, and upon submitting proof in the manner required by this Act that he has complied with the requirements thereof in all respects up to the date when the money was tendered by him, and that he has cultivated the whole area of fifty acres set forth in paragraph c) of this subsection.

2. The said subsection is further amended by inserting the word "further" between the words "provided" and "that" in the thirty-third line thereof.

3. Subsection 3 of the said section 27 is repealed and the following is substituted therefor:—

3. The price of land under this section shall be three dollars an acre, one-third of the total amount of the purchase money at that rate to be payable on the expiration of three years from the date of the receipt for the pre-emption fee and the balance of such purchase money to be payable in five equal successive annual instalments, and every instalment which is not paid upon the date when it becomes due shall bear interest at the rate of five per centum per annum from such date until it is paid: Provided that, on the completion of the requirements under this section for obtaining letters patent for a pre-emption, payment in full may be made for the same and letters patent therefor may thereupon issue: Provided also that, if any person has paid interest on the whole or any portion of the purchase money for his pre-emption for the first three years from the date of the receipt for his pre-emption fee, or on any instalment or instalments for any period before any such instalment became due, the amount so paid by him as interest shall be credited as paid by him on account of the purchase money. Persons who have paid both interest and principal in full shall not be entitled to receive a refund of the amount paid on account of interest or any portion thereof.

S.C. 1918 8-9 GeorgeV c.19 ss.8, 9, 10 & 28-1 & 3

8. Subsection one of section twenty-seven of the said Act is amended by striking out the last four lines thereof, and substituting the following therefor:—

Provided further that where the surface of both the homestead and pre-emption is of a wooded, rocky, flooded or broken character, the Minister may in his discretion reduce the area of cultivation which is required under this section.

Provided also that if the entrant for a pre-emption has completed the requirements requisite to obtaining letters patent for his homestead, he shall do in each year, until he obtains letters patent for his pre-emption or certificate of recommendation therefor, such portion of the cultivation required to be performed in connection with the pre-emption as may be satisfactory to the Minister.

9. Subsection one of section twenty-seven of the said Act, as amended by section two of chapter twenty-seven of the statutes of 1914, is further amended by adding the following proviso thereto:

> Provided also that where any holder of a pre-emption entry is unable to obtain patent for his pre-emption under the preceding paragraph solely by reason of his residence duties being in default, he may secure patent for same by paying in addition to the usual purchase price of his pre-emption together with accrued interest, the extra price of three dollars per acre.

10. Subsection three of section twenty-seven of the said Act, as enacted by section three of chapter twenty-seven of the statutes of 1914, is amended by adding the following proviso thereto:

> Provided also that on the completion of the requirements under this section for obtaining letters patent for a pre-emption other than the payment for the same in the manner aforesaid, an application for letters patent may be made without immediately tendering payment in full, and in such a case the holder of the entry may, on application to the Minister, receive a certificate of recommendation in the Form "J" in the Schedule to this Act, countersigned by the Commissioner of Dominion Lands, setting forth that if within the period of time during which the certificate of recommendation is in force, payment is made in full of the purchase price of the pre-emption together with accrued interest, letters patent shall issue in the name of the holder of the entry; and such certificate shall entitle the holder of the entry during such period of time to mortgage, assign or transfer his interest in the land with respect to which the certificate of recommendation is issued; provided that at the expiration of one year from the date of the issue of such certificate of recommendation the same shall become null and void, but the operation of it may be extended in the discretion of the Minister.

28-1. The privilege of pre-emption entry on Dominion Lands as provided for by section twenty-seven of the *Dominion Lands Act,* chapter twenty of the statutes of 1908, as amended by sections two and three of chapter twenty-seven of the statutes of 1914, is hereby withdrawn.

28-3. Where land has been reserved for pre-emption entry for any homesteader who is on active military service, or where notice has been issued to any person allowing him a specified time within which to appear and secure pre-emption or purchased homestead entry for a given quarter-section, such land may be sold to the homesteader or to the person so notified, at the rate of three dollars per acre, subject to the duties, terms and conditions which would have obtained if the pre-emption and purchased homestead privilege had not been withdrawn.

Second Homestead Entry

S.C. 1883 46 Victoria c.17 s.37

37. Any person who has obtained a homestead patent after three years' residence, or a certificate countersigned by the Commissioner of Dominion Lands, as in the next preceding clause mentioned, with the additional statement that there has been three years' residence, may obtain another homestead and pre-emption entry.

S.C. 1886 49 Victoria c.27 s.8

8. Clause thirty-seven of the said Act is hereby repealed and the following substituted therefor:—

37. No person who has obtained a homestead patent or a certificate countersigned by the Commissioner of Dominion Lands, or a member of the Dominion Lands Board, as in the next preceding clause mentioned, shall be entitled to obtain another homestead entry;

But such repeal shall not take away the right of any person who, before the passing of this Act, had received such certificate or recommendation for a patent.

S.C. 1887 50-51 Victoria c.31 s.5

5. Clause forty-three of the said Act is hereby repealed, and the following substituted therefor:—

43. No person who has obtained a homestead patent or a certificate countersigned by the Commissioner of Dominion Lands, or a member of the Dominion Lands Board, as in the next preceding clause mentioned, shall be entitled to obtain another homestead entry: Provided however, that any person who, on the second day of June, in the year one thousand eight hundred and eighty-seven, had obtained a homestead patent, or a certificate of recommendation for a patent, countersigned by the Commissioner of Dominion Lands, or who had complied with the homestead provisions of the Acts then in force relating to Dominion Lands entitling him to such certificate, or any person who has been permitted under the terms of section thirty-eight of the *Dominion Lands Act*, 1883, to create a charge upon his homestead, and had completed his homestead duties on the said second day of June, one thousand eight hundred and eighty-seven, shall be permitted to make a second homestead entry.

S.C. 1892 55-56 Victoria c.15 s.3

3. The sub-clause substituted by section three of chapter thirty-one of the Statutes of 1887, for sub-clause five of clause thirty-eight of the said Act, is hereby repealed and the following substituted therefor:—

5. If, in connection with the homestead entry, the settler has obtained a pre-emption entry, in accordance with the provisions of this Act, he shall, on becoming entitled to a patent for his homestead, be also entitled to a patent for the land included in such pre-emption entry, on payment of the price fixed, in accordance with the provisions of this Act, by the Governor in Council; but such pre-emption right, if not exercised and payment made within two years after the settler becomes entitled to claim a patent under this homestead entry, shall be forfeited, and the land included in such pre-emption entry may be opened for homestead entry by the Minister of the Interior: Provided, however, that where a settler has had a homestead and pre-emption entry, and has obtained a patent for his homestead in time to entitle him to make a second homestead entry, and has been permitted to make a second homestead entry for the quarter section which was previously his pre-emption, he shall be entitled to a patent under such second homestead entry upon proving—

a) That he has resided upon the quarter section which was the subject of his first homestead entry for not less than six months in each of three years from and after the date of his second homestead entry;

b) That within the first year after the date of his second homestead entry he broke and prepared for crop not less than fifteen acres of his second homestead quarter section;

c) That within the second year after the date of his second homestead entry he cropped the said fifteen acres, and broke and prepared for crop not less than fifteen acres in addition on his second homestead quarter section, making not less than thirty ares;

d) That within the third year after the date of his second homestead entry he cropped the said thirty acres, and broke and prepared for crop not less than ten acres in addition, making in all not less than forty acres of the said second homestead broken and prepared for crop within three years of the date of his second homestead entry;

And the residence described in this sub-clause shall be sufficiently fulfilled if the applicant has not been absent from his residence for more than six months in any one year.

S.C.1898 61 Victoria c.31 s.5

5. The sub-clause substituted for sub-clause 5 of the said clause 38, by section 3 of chapter 15 of the statutes of 1892, is hereby amended by striking out all the words after "Interior" in the twelfth line.

S.C. 1908 7-8 Edward VII c.20 s.11-8

8. Except as otherwise provided in this Act, every person who has received or receives, or has become or becomes entitled to letters patent for a homestead by the performance of homestead duties, with or without payment of purchase money, or by the location of scrip thereon, shall be deemed to have exhausted his homestead right and shall not be entitled to obtain another entry for a free homestead: Provided, however, that any person who, on the second day of June, in the year one thousand eight hundred and eighty-nine, had obtained or had become entitled to letters patent for a homestead, shall be permitted to make a second entry for a homestead.

S.C. 1923 13-14 George V c.44 s.2

2. Subsection eight of section eleven of the said Act is amended by adding thereto the following proviso:—

Provided further that notwithstanding anything contained in this subsection any person who, on the first day of January, 1923, had obtained letters patent for a homestead, within that part lying south of the south boundary of township thirty-one of the tract known as the pre-emption and purchased homestead area, and defined by subsection one of section twenty-seven of the *Dominion Lands Act*, but who is no longer the owner of a farm, may, in the discretion of the Minister, be granted the right to make entry for another homestead subject to the provisions of this Act, upon submitting proof of his *bona fides* as a settler in the form of a certificate from the Government of the Province setting forth that the said application conscientiously endeavoured to farm his land but failed because of circumstances not favourable to successful agriculture.

R.S.C. 1927 c.113 s.11-8 & 9

8. Except as otherwise provided in this Act, every person who has received or receives, or has become or becomes entitled to letters patent for a homestead by the performance of homestead duties, with or without payment of purchase money, or by the location of scrip thereon, shall be deemed to have exhausted his homestead right and shall not be entitled to obtain another entry for a free homestead: Provided, however, that any person who, on the second day of June, in the year one thousand eight hundred and eighty-nine, had obtained or had become entitled to letters patent for a homestead, shall be permitted to make a second entry for a homestead.

9. Notwithstanding anything contained in the last preceding subsection, any person who, on the first day of January, one thousand nine hundred and twenty-three, had obtained letters patent for a homestead, within that part lying south of the south boundary of township thirty-one of the tract known as the pre-emption and purchased homestead area, and defined by subsection one of section twenty-seven of chapter twenty of the statutes of the year one thousand nine hundred and eight, but who is no longer the owner of a farm, may, in the discretion of the Minister, be granted the right to make entry for another homestead subject to the provisions of this Act, upon submitting proof of his *bona fides* as a settler in the form of a certificate from the Government of the Province setting forth that the said applicant conscientiously endeavoured to farm his land but failed because of circumstances not favourable to successful agriculture.

S.C. 1928 18-19 George V c.21 s.1

1. Subsections eight and nine of section eleven of the *Dominion Lands Act*, chapter one hundred and thirteen of the *Revised Statutes of Canada*, 1927, are hereby repealed and the following is substituted therefor:—

> 8. Except as otherwise provided in this Act, every person who has received or receives, or has become or becomes entitled to letters patent for a homestead by the performance of homestead duties, with or without payment of purchase money, or by the location of scrip thereon, shall be deemed to have exhausted his homestead right and shall not be entitled to obtain another entry for a free homestead;
>
> Provided, however, that any person who on the first day of January, 1925, had obtained or had become entitled to letters patent for a homestead as aforesaid, may be granted the right to make entry for a second homestead, subject to the provisions of this Act.
>
> The holder of a pre-emption or purchased homestead entry shall not be permitted to abandon the same in his own favour or in the favour of a relative for the purpose of making entry for the land as a second homestead under the provisions of this subsection.

Forest Tree Culture

S.C. 1876 39 Victoria c.19 ss.20, 22, 23 & 25

20. Any person, male or female, being a subject of Her Majesty by birth or naturalization and having attained the age of eighteen years shall be entitled to be entered for one quarter-section or less quantity of unappropriated Dominion lands as a claim for forest tree planting.

22. No patent shall issue for the land so entered until the expiration of six years from the date of entering into possession thereof, and any assignment of such land shall be null and void unless permission to make the same shall have been previously obtained from the Minister of the Interior.

23. At the expiration of six years the person who obtained the entry, or, if not living, his or her legal representative or assigns shall receive a patent for the land so entered on proof to the satisfaction of the local agent as follows [cultivation duties are defined in the original text]:—

25. Provided that no person who may have obtained pre-emption entry of a quarter-section of land in addition to his homestead entry under the provisions of sub-section one of section thirty-three of the said *Dominion Lands Act* as amended by the Act of 1874, and by this Act, shall have the

right to enter a third quarter-section as a tree planting claim; but such person, if resident upon his homestead, may have the option of changing the preemption entry of the quarter-section or of a less quantity of such quarter-section, for one under the foregoing provisions, and on fulfilling the preliminary conditions as to affidavit and fee, may receive a certificate for such quarter-section or for such quantity thereof as may have been embraced in the application; and thereupon the land included in such change of entry shall become subject in all respects to the provisions of this Act relating to tree planting.

S.C. 1879 42 Victoria c.31 ss. 68, 69 & 73

68. No patent shall issue for the land so entered until the expiration of eight years from the date of entering into possession thereof; and any assignment of such land shall be null and void unless permission to make the same shall have been previously obtained from the Minister of the Interior.

69. At the expiration of eight years or at any time within five years after the expiration of the said term, as hereinafter provided, the person who obtained the entry, or, if not living, his or her legal representative or assigns, shall receive a patent for the land so entered on proof to the satisfaction of the local agent as follows:—

a) That five acres of the land so entered, in case the same consists of a legal sub-division of one hundred and sixty acres, shall be broken or ploughed the first year after entry, and an equal quantity during the second year after entry;

b) That the five acres of the land entered, which have been broken or ploughed during the first year, shall be cultivated to crop during the second year, and the five acres broken or ploughed during the second year shall be cultivated to crop during the third year;

c) That the five acres broken or ploughed during the first year, and cultivated to crop during the second year as above provided, shall be planted in trees, tree-seeds or cuttings during the third year, and the five acres broken or ploughed during the second year, and cultivated to crop during the third year as above provided, shall be planted in trees, tree-seeds or cuttings during the fourth year:

Provided that in cases where the land entered consists of a legal sub-division less than one hundred and sixty acres, then the respective areas requiring to be broken or ploughed, cultivated to crop and planted, under this sub-section and the two sub-sections next preceding, shall be proportionately less in extent:

Provided also, that the Minister of the Interior, in his discretion, and on his being satisfied that any trees, tree-seeds, or cuttings, may have been destroyed from any cause not within the control of the person holding the tree-claim, may grant an extension of time for carrying out the provisions of the three sub-sections next preceding:

Provided also, that, at the expiration of the said term of eight years, or at any time within five years thereafter, the person obtaining such tree-claim, on proving to the satisfaction of the Minister of the Interior that he or she has planted not less than two thousand seven hundred trees on each acre of the portion broken or ploughed and cultivated to crop as hereinbefore provided, and that at the time of applying for a patent for the tree-claim, there are then growing thereon at least six hundred and seventy-five living and thrifty trees to each acre, the claimant shall receive a patent for the legal sub-division entered.

73. Persons who may have been entered under the provisions of the Act thirty-nine Victoria, chapter nineteen, for land as a claim for tree-planting, may, if they choose to do so, avail themselves of the provisions of this Act in that behalf.

Settlement in Advance of Survey

S.C. 1872 35 Victoria c.23 s.33-5

5. Every person claiming a homestead right from actual settlement must file his application for such claim, describing the land settled, with the Local Agent within whose district such land may be, within thirty days next after the date of such settlement, if in surveyed lands; but if in unsurveyed lands the claimant must file such application within three months after such land shall have been surveyed; and in either case proof of settlement and improvement shall be made to the Local Agent at the time of filing such application.

S.C. 1876 39 Victoria c.19 s.6

6. Subsection five of the said section thirty-three is hereby repealed, and the following substituted therefor:—

> 5. Every person claiming a homestead right on surveyed land must, previously to settlement on such land, be duly entered therefor with the local agent within whose district such land may be situate; but in case of a claim from actual settlement in then unsurveyed lands, the claimant must file such application within three months after due notice has been received at the local office of such land having been surveyed and the survey thereof confirmed, and proof of settlement and improvement shall be made to the local agent at the time of filing such application.

S.C. 1879 42 Victoria c.31 s.34-5

5. Every person claiming a homestead right on surveyed land must, previously to settlement on such land, be duly entered therefor with the local agent within whose district such land may be situate; but in case of a claim from actual settlement in then unsurveyed lands, the claimant must file such application within three months after due notice has been received at the local office of such land having been surveyed and the survey thereof confirmed, and proof of settlement and improvement shall be made to the local agent at the time of filing such application, whereupon such claimant shall be allowed to enter, to the extent of one hundred and sixty acres, as a homestead, the land as the same may have been surveyed and laid out, upon which he may be resident, in such manner as to cover his most valuable improvements: Provided that on the survey of a township being made, the Government shall not be bound to protect any person found to have settled on land which, by law or by allotment duly made, may be claimed by the Hudson's Bay Company.

S.C 1880 43 Victoria c.26 s.4

Every person claiming a homestead right on surveyed land must, previously to settlement on such land, be duly entered therefor with the Local Agent within whose district such land may be situate; but in case of a claim from actual settlement in then unsurveyed lands, the claimant must file such application within three months after due notice has been received at the local office of such land having been surveyed and the survey thereof confirmed; and proof of settlement and improvement shall be made to the Local Agent at the time of filing such application,—whereupon such claimant shall be allowed to enter, to the extent of one hundred and sixty acres, as a homestead, the land, as the same may have been surveyed and laid out, upon which he may be resident, in such manner as to cover his most valuable improvements: Provided that on the survey of a township being made, the Government shall not be bound to protect any person found to have settled on land which may have been set apart as railway land, or for any other special purpose, by the Governor in Council, or which, by law or by allotment duly made, may be claimed by the Hudson's Bay Company.

S.C.1883 46 Victoria c.17 s.28

28. Whenever the survey of any township has been finally confirmed and such township opened for homestead entry, any person who has *bona* fide settled and made improvements before such confirmed survey on land in such township, shall have a prior right to obtain homestead entry for the land so settled on, provided such right be exercised within three months after the land is open for settlement; and provided that such land has not been reserved or the right to homestead entry is not excepted under the provisions of this Act. No homestead entry shall be granted to any other person in respect of such land until three months after notice in writing shall have been given by the Local Agent to such *bona fide* settler that such land is open for settlement.

S.C. 1908 7-8 Edward VII c.20 s.10

10-1. A person who has *bona fide* settled and made improvements on agricultural land before the survey thereof and is in occupation of and ordinarily resident on the land at the time of survey shall, if he is eligible under this Act to make entry for a homestead, or a purchased homestead, have a prior right to obtain entry for the land so settled on: Provided that this right is exercised within six months after notice in writing that the land is open for entry has been given by the local agent to the said person, or has been posted in a conspicuous place on the land; and that entry shall not be allowed for more than a quarter-section as a homestead.

10-2. The occupation of land after the survey thereof, without entry as provided by this Act, gives to the occupant no right thereto, and the occupant may be ejected as a trespasser, and his improvements forfeited to the Crown.

S.C.1918 8-9 George V c.19 s.1

1. Subsection one of section ten of the *Dominion Lands Act*, chapter twenty of the statutes of 1908, is amended by striking out the words "or a purchased homestead" in the fifth line thereof.

S.C. 1919 9-10 George V c.50 s.7

7. Subsection one of section ten of the said Act is amended by adding thereto the following words:—

> Provided further that no person shall obtain any rights under this section who settles on land reserved for soldier settlement after such land has been so reserved.

Squatting

Public Notice printed in 1881 Sessional Papers 44 Victoria No. 20

Public Notice

Is hereby given, that all applicants to purchase Railway Lands in the Townships surveyed last year, whether such applicants have settled on the land or otherwise, will be required to pay for the same, according to the price of such lands at the time they are placed in the hands of the Agent for disposal. And whereas, it is understood that squatting is being carried on to a great extent on unsurveyed lands, the public is hereby notified that on the survey of a township which may be situated within the limits of a railway belt, the Government shall not be bound to protect any person who may have squatted on land therein in his possession of the same, whether such land may prove to form a part of an odd or of an even numbered section.

The provisions of this notice take place from the 1st day of May, 1880.

J.S. Dennis,
Deputy of the Minister of the Interior

Lindsay Russell, *Surveyor-General*
Ottawa, 1st May, 1880.

S.C. 1883 46 Victoria c.17 s.75

75. When any settler, purchaser or other person refuses or neglects to deliver up possession of any land after forfeiture of the same under the provisions of this Act, or whenever any person is wrongfully in possession of Dominion land, and refuses to vacate or abandon possession of the same, the Minister of the Interior may apply to a judge of any court having competent jurisdiction in cases respecting real property in the Province or place in which the land is situate, for an order in the form of a writ of ejectment or of *habere facias possessionem*; and the said judge, upon proof to his satisfaction that such land was so forfeited and should properly revert to the Crown, or is wrongfully in possession of such person, shall grant an order upon the settler or person or persons in possession, to deliver up the same to the Minister of the Interior or to the person by him authorized to receive such possession; and such order shall have the same force as a writ of *habere facias possessionem*, and the sheriff shall execute the same in like manner as he would execute the said writ in an action of ejectment or a petitory action.

S.C. 1898 61 Victoria c.31 ss.14-17

14. When any person is wrongfully or without lawful authority in possession of any Dominion lands and refuses to vacate or abandon possession thereof, the Minister of the Interior, or any officer or agent of the Department of the Interior authorized by the Minister for that purpose, may, upon evidence of the facts by solemn declaration made in accordance with provisions of the *Canada Evidence Act*, 1893, apply to the judge of the county court for the county within which the lands are situated, if the lands are in the province of Manitoba, and to the judge of the judicial district in which the lands are situated, if the lands are in the North-west Territories, for a summons directed to such person calling upon him forthwith to vacate or abandon the said lands, or within thirty days after service of the said summons to show cause why an order or warrant for his removal from the said lands should not be made; and if, upon the return of the summons, it appears that he has

not vacated or abandoned possession of the said lands, or if he does not show good cause to the contrary, the judge shall make an order or warrant for his summary removal from the said land, and the said order or warrant shall be executed by the sheriff, bailiff, constable or other person to whom it is delivered.

15. It shall be sufficient service of the summons if a copy thereof is left with a grown-up person found on the said lands, and another copy is put in some conspicuous place thereon, or, where no grown-up person is found on the lands, if a copy is put up in each of two conspicuous places thereon.

16. The officer or person to whom any order or warrant is addressed under the foregoing provisions shall forthwith remove the person named thereon from the said lands, and in the execution of the said order or warrant shall have all the powers, rights, immunities and privileges enjoyed by a sheriff, constable or other peace officer in the execution of his duty.

17. Any person remaining upon Dominion lands after having been ordered to vacate them, or returning thereto after having vacated them in obedience to a summons, or after having been removed therefrom under an order or warrant as aforesaid, shall, upon summary conviction thereof before a judge, stipendiary or police magistrate or two or more justices of the peace, be liable to a fine of not less than twenty dollars and not more than one hundred dollars.

S.C. 1908 7-8 Edward VII c.20 ss.99-100

99-1. When any settler, purchaser, lessee, licensee, permittee, or other person refuses or fails to cease using, possessing, or occupying any land which in the opinion of the Minister he is wrongfully or without lawful authority using, possessing or occupying, or refuses or fails to deliver up possession of any land after his right to use, possess or occupy it has been declared forfeited under the provisions of this Act, the Minister, or any officer or agent of the Department of the Interior authorized by the Minister for that purpose, may apply to the judge of a county court, if the land is in the province of British Columbia, to the county court judge for the judicial district or county court division within which the land is situate if the land is in the province of Manitoba, and to the judge of a county court or the judge of the judicial district in which the land is situate, if the land is in the provinces of Saskatchewan or Alberta, to a stipendiary magistrate if the land is in the Northwest Territories, and to a police magistrate or a judge of the Territorial Court, if the land is in the Yukon Territory, for a summons directed to the person who in the opinion of the Minister is wrongfully or without lawful authority using or in possession or occupancy of such land, or who refuses or fails to deliver up possession after his right to use, possess or occupy it has been declared forfeited under the provisions of this Act, calling upon the said person forthwith to vacate or abandon, and cease using, possessing or occupying such land, or to deliver up possession thereof, as the case may be, or within thirty days after service of the said summons to show cause why an order or warrant should not be made for his removal from the said land, and to compel him to vacate or abandon it, and to cease using, possessing or occupying it, or to deliver up possession of it, as the case may be; and if, upon the return of the summons, it appears that he has not removed from, vacated or abandoned the said land, or ceased using, possessing or occupying it, or delivered up possession of it, as the case may be, or if he does not show good cause to the contrary within the period limited by the summons, the judge or the stipendiary or police magistrate shall, upon request made to him by the Minister, make an order or warrant for the said person's summary removal from the land, directing him to forthwith vacate and abandon it and to cease using, possessing or occupying it, and to deliver up possession of it in a case where his right to use, possess or occupy it has been declared forfeited under the provisions of this Act; and the said order or warrant shall be executed by the sheriff, bailiff, constable or other person to whom it is delivered for that purpose.

99-2. The officer or person to whom the order or warrant is addressed shall forthwith remove the person named therein from the said land and also all persons, who as members of his family, or as his employees, servants or labourers, or as his tenants or their families, employees, servants or labourers, or otherwise under his authority or direction or permission, are using or occupying the said land; and in the execution of the order or warrant the officer or person to whom it is addressed shall have all the powers, rights, immunities and privileges enjoyed by a sheriff, constable or other peace officer in the execution of his duty.

99-3. It shall be sufficient service of the summons if a copy thereof is left with a grown-up person found on the said land, and another copy is put up in some conspicuous place thereon, or, where no grown-up person is found on the land, if a copy is put up in each of two conspicuous places thereon.

99-4. In a case of forfeiture, where the order or warrant directs any person who is not in possession or occupancy of the land to deliver up possession thereof, the order or warrant shall be sufficiently executed if a copy of it is left with any grown-up person on the said land and another copy is put up in some conspicuous place thereon, or, where no grown-up person is found on the land, if a copy is put up in each of two conspicuous places thereon, and the service of the order or warrant in the manner prescribed in the next preceding subsection shall confirm the forfeiture and make it irrevocable; but if, cause having been shown to the contrary, within the period limited in the summons for that purpose, the judge declines to make an order or warrant, the forfeiture shall thereupon be immediately cancelled by the Minister.

100. Any person remaining upon Dominion lands or returning thereto, or assuming any right of possession or occupancy or use thereof, after having been ordered to vacate them, under the provisions of this Act, or after having been removed therefrom under an order or warrant, shall, upon summary conviction before a judge, stipendiary or police magistrate, or two or more justices of the peace, be liable to a fine not exceeding three hundred dollars or to imprisonment for a term not exceeding six months, or to both penalty and imprisonment, in the discretion of the court.

Charges Against Homesteads

S.C.1883 46 Victoria c.17 s.38-1 & 2

38-1. If any person or person thereunto authorized by the Minister of the Interior place immigrants as settlers on homestead lands in Manitoba or the North-West Territories, free of expense to the Government, the Governor in Council may order that the expenses, or any part thereof, incurred by such person or persons, for the passage money or subsistence in bringing out an immigrant, or for aid in erecting buildings on his homestead, or in providing horses, cattle, farm implements or seed grain for him, may, if so agreed upon by the parties, be made a charge upon the homestead of such immigrant; and in such case the claim for expense incurred on behalf of such immigrant, as above, together with interest thereon, must be satisfied before a patent or certificate for patent shall issue for the land: Provided as follows:—

a) That the sum or sums charged for the passage money and subsistence of such immigrant shall not be in excess of the actual cost of the same, as proved to the satisfaction of the Minister of the Interior;

b) That an acknowledgment by such immigrant of the debt so incurred shall have been filed in the office of the Local Agent;

c) That in no case shall the charge against such homestead for principal moneys advanced exceed in amount the sum of five hundred dollars;

d) That no greater rate of interest than six per cent per annum shall be charged on the debt so incurred by such immigrant;

38-2. If an immigrant to whom an advance has been made, as in this clause provided, and by whom or for whom a homestead entry, or homestead and pre-emption entries, have been obtained, forfeits such entry or entries under the provisions of this Act, the Minister of the Interior may, in his discretion, treat the person by whom such advance was made as if he were the person who had obtained such entry or entries, or his legal representative, and as if, up to the time of his being so treated, no forfeiture of the entry had taken place, and if, under like circumstances, the immigrant, by or for whom a homestead entry or homestead and pre-emption entries have been obtained, has acquired a right to receive a patent for the land forming the subject of such entry or entries after three years' residence, and does not apply for the issue of the same, the person or persons by whom the advance was made may obtain such patent or certificate for patent in the name of the person so entitled to obtain the same, or of his legal representatives, and thereupon the advance made shall be a statutory mortgage on such homestead.

S.C. 1886 49 Victoria c.27 s.9

9. Clause thirty-eight of the *Dominion Lands Act*, with the sub-sections thereof, is hereby repealed, and the following section with sub-sections thereof substituted therefor:—

38. If any person or company shall be desirous of assisting by advances in money intending settlers to place themselves on homestead lands in Manitoba or the North-West Territories, and of securing such advances, such person or company may make application to the Minister of the Interior, stating the plan or project intended to be acted upon, the steps to be taken in furtherance thereof and the amount to be advanced to such settlers; and the Minister of the Interior may sanction and authorize such plan or project, or refuse his sanction and authority thereto:

a) If such plan or project be so sanctioned, and such person or company shall thereupon place any settler upon a homestead, a statement of the expense incurred by such person or company in paying the actual *bona fide* cost of the passage and of providing for the subsistence of such settler and his family, of erecting buildings on his homestead (to which purpose at least one-half of the advance made shall be devoted) and of providing horses, cattle, farm implements and seed grain for him, together with an amount in money sufficient to cover the interest on the amount advanced for a time to be agreed upon, to enable such settler to obtain a return from the cultivation of such homestead, shall be furnished to him, and upon his approval thereof, shall be submitted with proper vouchers in support thereof to the local agent, who shall examine and verify the same both by such vouchers and by an examination of such settler, and of such person or company, or their representative; and shall certify the result of such verification by a writing upon such statement signed by him, and thereupon such settler may make and execute an acknowledgment in writing of the amount so advanced to him, and may by such writing create a charge upon such homestead for the amount of such advance, not exceeding the sum of six hundred dollars, and for the interest thereon, at a rate not exceeding eight per cent per annum;

b) Such acknowledgment and charge shall be in the form of Schedule Q hereto appended, and a duplicate thereof shall be deposited with the local agent, and thereafter the holder of such charge shall have the right to enforce payment of the amount so advanced and of the interest thereon by ordinary legal proceedings; provided always, that the time to be fixed for the payment of the first instalment of interest upon such advance shall not be earlier than the first day of November in any year, nor shall it be within less than two years from the establishment of such settler upon such homestead; and provided also, that such settler shall not be bound to pay the capital of such advance or any part thereof within a less period than five years from the date of his establishment upon such homestead;

c) Upon such acknowledgement and charge being duly executed and duly registered in the Registry Office for the Territorial Division in which such homestead shall be situated, the same shall constitute and be and remain a first charge upon such homestead after the issue of the patent or certificate of patent for such homestead, until duly satisfied and extinguished according to law;

d) If such settler shall not perform the conditions of settlement required to entitle him to a patent for such homestead within the time and in the manner provided by the *Dominion Lands Act*, and shall thereby forfeit his right to obtain a patent, the holder of the charge created thereon may apply to the Minister of the Interior for a patent of such homestead, and upon establishing the facts to the satisfaction of the Minister shall receive a patent in his name therefor; and such patentee shall be bound to place a *bona fide* settler on such homestead by the sale thereof to such settler or otherwise within two years from the date of such patent, and in default of so doing within the said period shall be bound and obliged on demand to sell the said homestead to any person willing to become a *bona fide* settler thereon for such sum of money as shall be sufficient to pay the amount of such charge and interest, and the expenses incurred by the patentee in obtaining such patent and in retaining the homestead, on pain, in case of refusal, of an absolute forfeiture of the said property and of all claims thereon and of the patent or other title thereto. But if the settler has acquired a right to receive a patent for the land so charged and does not apply for the issue of the same, the holder of such charge may obtain such patent, or certificate for patent, in the name of the person entitled to receive the same or of his legal representatives, and thereafter the said charge shall become a statutory mortgage on such homestead.

Section five of the Act forty-three Victoria, chapter forty-two, intituled *An Act relating to interest on Moneys secured by Mortgage on Real Estate*, and all amendments to the said clause, shall apply to all charges created under the provisions of this Act.

R.S.C. 1886 c.54 s.44

44-1. If any person or company is desirous of assisting by advances in money intending settlers to place themselves on homestead lands in Manitoba or the North-West Territories, and of securing such advances, such person or company may make application to the Minister, stating the plan or project intended to be acted upon, the steps to be taken in furtherance thereof, and the amount to be advanced to such settlers; and the Minister may sanction and authorize such plan or project, or refuse his sanction and authority thereto:

44-2. If such plan or project is so sanctioned, and such person or company thereupon places any settler upon a homestead, a statement of the expense incurred by such person or company in paying the actual *bona fide* cost of the passage and of providing for the subsistence of such settler and his family, of erecting buildings on his homestead (to which purpose at least one-half of the advance made shall be devoted) and of providing horses, cattle, farm implements and seed grain for him, together with an amount in money sufficient to cover the interest on the amount advanced for a time to be agreed upon, to enable such settler to obtain a return from the cultivation of such homestead, shall be furnished to him, and upon his approval thereof, shall be submitted with proper vouchers in support thereof to the local agent, who shall examine and verify the same both by such vouchers and by an examination of such settler, and of such person or company, or their representative, —and shall certify the result of such verification by a writing upon such statement signed by him; and thereupon such settler may make and execute an acknowledgement in writing of the amount so advanced to him, and may by such writing create a charge upon such homestead for the amount of such advance, not exceeding the sum of six hundred dollars, and for the interest thereon, at a rate not exceeding eight per cent, per annum.

44-3. Such acknowledgment and charge shall be in the form L in the schedule to this Act, and a duplicate thereof shall be deposited with the local agent, and thereafter the holder of such charge shall have the right to enforce payment of the amount so advanced and of the interest thereon by ordinary legal proceedings: Provided always, that the time to be fixed for the payment of the first instalment of interest upon such advance shall not be earlier than the first day of November in any year, nor shall it be within less than two years from the establishment of such settler upon such homestead; and provided also, that such settler shall not be bound to pay the capital of such advance or any part thereof within a less period than five years from the date of his establishment upon such homestead:

44-4. Upon such acknowledgment and charge being duly executed and duly registered in the registry office for the registration district in which such homestead is situated, the same shall constitute and be and remain a first charge upon such homestead after the issue of the patent or certificate of patent for such homestead, until duly satisfied and extinguished according to law:

44-5. If such settler has not performed the conditions of settlement required to entitle him to a patent for such homestead within the time and in the manner provided by this Act, and has thereby forfeited his right to obtain a patent, the holder of the charge created thereon may apply to the Minister for a patent of such homestead, and, upon establishing the facts to the satisfaction of the Minister shall receive a patent in his name therefor; and such patentee shall be bound to place a *bona fide* settler on such homestead by the sale thereof to such settler or otherwise within two years from the date of such patent, and in default of so doing within the said period shall be bound and obliged on demand to sell the said homestead, to any person willing to become a *bona fide* settler thereon, for such sum of money as is sufficient to pay the amount of such charge and interest, and the expenses incurred by the patentee in obtaining such patent and in retaining the homestead, on pain, in case of refusal, of an absolute forfeiture of the said property and of all claims thereon and of the patent or other title thereto. But if the settler has acquired a right to receive a patent for the land so charged and does not apply for the issue of the same, the holder of such charge may obtain such patent, or certificate for patent, in the name of the person entitled to receive the same or of his legal representatives, and thereafter the said charge shall become a statutory mortgage on such homestead.

S.C. 1887 50-51 Victoria c.31 s.6

6. Sub-clause two of clause forty-four of the said Act is hereby repealed, and the following substituted therefor:—

> 2. If such plan or project is so sanctioned, and such person or company thereupon places any settler upon a homestead, a statement of the expense incurred by such person or company in paying the actual *bona fide* cost of the passage and of providing for the subsistence of such settler and his family, of erecting buildings on his homestead (to which purpose one-half of the advance made may be devoted) and of providing horses, cattle, farm implements and seed grain for him, together with an amount in money sufficient to cover the interest on the amount advanced for a time to be agreed upon, to enable such settler to obtain a return from the cultivation of such homestead, shall be furnished to him, and shall also be submitted with proper vouchers in support thereof to the local agent, who shall examine and verify the same both by such vouchers and by an examination of such settler, and of such person or company, or their representative,—and shall certify the result of such verification by a writing upon such statement signed by him; and thereupon such settler shall make and execute an acknowledgment in writing of the amount so advanced to him, and shall by such writing create a charge upon such homestead for the amount of such advance, not exceeding the sum of six hundred dollars, and for the interest thereon, at a rate not exceeding eight per cent per annum: Provided always, that it shall be competent for the person or company proposing to make such advance to take at once an acknowledgment from the settler for the full amount of the charge proposed to be made; but such acknowledgment shall only operate as a charge upon the homestead to the extent that may be certified by the local agent upon presentation to him of vouchers or other satisfactory evidence that the advance for which a charge is proposed to be created have actually been made to the settler.

S.C. 1889 52 Victoria c.27 ss.4-6

4-1. Every acknowledgment entered into which purports to be so entered into in accordance with the provisions of clause forty-four of the *Dominion Lands Act*, and which has been examined, verified and certified by a local agent or a homestead inspector, previous to the date of the passing of this Act, is hereby ratified and confirmed, notwithstanding any departure from the conditions of the said clause forty-four, and shall have force and effect as if no such departure had taken place: Provided however, that no such acknowledgment shall be deemed to create a charge in respect of any moneys advanced or paid for any purposes other than those for which an advance is authorized by the said clause forty-four, except the cost of materials for buildings, house furniture, breaking land on homestead, the entry fee for the homestead, and legal expenses not exceeding ten dollars:

4-2. Every acknowledgment entered into in pursuance of the said clause forty-four, and which has been submitted, with the proper vouchers in support thereof, to a homestead inspector, instead of to a local agent as provided by the said clause, and which has been examined, verified and certified by such inspector, and subsequently registered at the office of any local agent, or in the books of the Minister of the Interior, shall be valid and binding in like manner as if the same had been examined, verified and certified by a local agent, as provided by the said clause.

5. Subclause two of the said clause forty-four as amended by clause six of chapter thirty-one of the Act passed in the session held in the fiftieth and fifty-first years of Her Majesty's reign, is hereby repealed, and the following substituted therefor:—

> 2. If such plan or project is so sanctioned and such person or company thereupon places any settler upon a homestead, a statement of the expenses incurred by such person or company in paying the actual *bona fide* cost of the passage, of paying for the homestead entry, or homestead and pre-emption entry, as the case may be, of providing for the subsistence of such settler and his family, of providing materials for buildings and of erecting buildings on his homestead and of insuring the said buildings (to which purposes one-half of the advance may be devoted), of breaking land on such homestead, and of providing horses, cattle, house furniture, farm implements and seed grain for him, in which statement a sum not exceeding ten dollars for the cost of selecting the homestead, placing the settler thereon and legal expenses, and also an amount in money to cover interest on the amount advanced for a time to be agreed upon to enable such settler to obtain a return from the cultivation of such homestead may be included, shall be furnished to such settler and shall also be submitted with proper vouchers in support thereof to the local agent, a homestead inspector or other agent appointed by the Minister of the Interior, and the local agent, inspector or other agent so appointed, shall examine and verify the same both by such vouchers and by an examination under oath of such settler and of such person or company or their representative, and shall certify the result of such verification by a writing upon such statement signed by him; and thereupon such settler shall make and execute an acknowledgment in writing of the amount so advanced to him and shall, by such writing, create a charge in the form L in the schedule to this Act upon such homestead for the amount of such advance, not exceeding the sum of six hundred dollars, and for the interest thereon at a rate not exceeding eight per cent per annum: Provided always, that it shall be competent for the person or company proposing to make such advance to take at once from an intending settler, an acknowledgment in the form R in the schedule to this Act and that acknowledgment shall operate as a charge upon the homestead for which such settler obtains entry, to the extent that is certified by the local agent, homestead inspector or other agent appointed by the Minister of the Interior, for any sum not exceeding six hundred dollars for the interest thereon at a rate not exceeding 8 per cent per annum, upon presentation to him of vouchers or other satisfactory evidence that the advance for which a charge is proposed to be created has

actually been made to the settler and that the settler has been actually placed on such homestead.

6. Sub-clause three of clause forty-four aforesaid is hereby repealed and the following substituted therefor:—

> 3. A duplicate of such acknowledgment and charge shall be deposited with the local agent, and thereafter the holder of such charge shall have the right to enforce payment of the amount so advanced and of the interest thereon by ordinary legal proceedings: Provided always, that the time to be fixed for the payment of the first instalment of interest upon such advance shall not be earlier than the first day of November in any year, nor shall it be within less than two years from the establishment of such settler upon such homestead; and provided also, that such settler shall not be bound to pay the capital of such advance, or any part thereof, within a less period than four years from the date of his establishment upon such homestead.

S.C. 1891 54-55 Victoria c.24 ss.8-11

8. Sub-clause two of clause forty-four of the *Dominion Lands Act*, as enacted by section five of the Act fifty-second Victoria, chapter twenty-seven, is hereby amended by inserting after the word "passage" in the fifth line thereof the words "and freight," and also by inserting after the word "providing" in the sixth line thereof the words "medical attendance and."

9. The sub-clause substituted by section six of the Act fifty-second Victoria, chapter twenty-seven, for sub-clause three of clause forty-four of the *Dominion Lands Act*, is hereby repealed and the following substituted therefor:—

> 3. A duplicate of such acknowledgment and charge shall be deposited with the local agent, and thereafter the holder of such charge shall have the right to enforce payment of the amount so advanced and of the interest thereon by ordinary legal proceedings: Provided always, that the time to be fixed for the payment of the first instalment of interest upon such advance shall not be earlier than the first day of November in any year, nor shall it be within less than two years from the establishment of such settler upon such homestead; provided also, that such settler shall not be bound to pay the capital of such advance, or any part thereof, within a less period than four years from the date of his establishment upon such homestead; and provided also, that the holder of such charge may, subject to the approval of the Minister of the Interior, assign the same, and shall be deemed always to have had such power, subject to the approval of the Minister of the Interior; and provided further, that additional charges may, from time to time, be created on such homestead in the manner hereinabove provided so long as the aggregate amount of the capital of the advances so charged thereon does not, at any time, exceed the said sum of six hundred dollars.

10. The provisions of clause forty-four of the *Dominion Lands Act*, as amended by the Act fifty-second Victoria, chapter twenty-seven, and by this Act, may be applied, at the option of any person interested, to any lands affected by advances made under any Act in that behalf heretofore in force.

11-1. Any settler who has created a charge upon his homestead for an advance under the provisions of the *Dominion Lands Act*, may obtain entry for another homestead in lieu thereof, if the Minister of the Interior and the holder of such charge consent thereto and such settler executes a transfer of such charge to the new homestead; and upon such entry being so made, the charge so created shall operate as a first charge upon the new homestead for the amount of such advance still unpaid, and shall cease to be a lien upon the abandoned homestead.

11-2. The provisions of this clause may be applied to any settler who has already obtained entry for a new homestead in lieu of the homestead upon which he had created a charge for such advance.

S.C. 1897 60-61 Victoria c.29 s.16

16. Clause ten of chapter twenty-four of the statutes of 1891 is hereby amended by adding the following words thereto: "and where the person so interested is unable to obtain an affidavit by a witness to the execution of the acknowledgment and charge by the settler to whom the advance thereby secured was made, the registrar of the district in which the land so charged or encumbered is situated is hereby authorized to accept in lieu of such affidavit a certificate from the local agent in whose office the acknowledgment and charge is of record, that it was duly filed in his office; and it is hereby declared that if the said acknowledgment and charge was so duly filed it shall be considered to have constituted a first charge upon such land from the date of its filing with the local agent, and to be and remain a first charge upon such land until duly satisfied and extinguished according to law."

S.C.1900 63-64 Victoria c.20 s.3

3. Sub-clause 5 of clause 44 of the said Act is amended by adding at the end thereof the words, "in which case the patent may issue in the name of the settler even if he is not a British subject."

S.C. 1901 1 Edward VII c.20 s.4

4. Clause 44 of the said Act is amended by adding the following subclause thereto:—

> 6. If any settler has acquired a right to receive a patent for his homestead subject to an acknowledgment and charge created under the provisions of section 38 of chapter 17 of the statutes of 1883, or of the provisions of this clause, and has applied for the issue of such patent but it has not been issued, the holder of the charge so created may obtain the patent or a certificate for patent in the name of such settler, whether the latter is a British subject or not, or in the names of his legal representatives, whether they are British subjects or not; and thereafter the said charge shall become a lien on such homestead.

S.C. 1908 7-8 Edward VII c.20 ss.29 & 30

29. Except in so far as provision is hereinafter made respecting advances of seed grain or any indebtedness to the Crown, no charge of any nature may be created upon a homestead, a purchased homestead or a pre-emption; but any charge heretofore created under the provisions of section 145 of chapter 55 of the *Revised Statutes*, 1906, or of the corresponding provisions of any previous Act respecting Dominion lands shall continue to be recoverable in the manner provided by said chapter 55.

30. In any case in which any settler or purchaser is entitled to the issue of letters patent for any land to which this Act applies, but the issue of the letters patent is delayed because of the liability of the settler or purchaser, either as principal or surety upon a bond to the Crown or to the Minister, or

as mortgagor on a mortgage in favour of the Crown or of the Minister, for a sum due or payable in respect of an advance of seed grain, or because of any other indebtedness to the Crown, the Minister may cause the letters patent to issue in favour of the settler or purchaser entitled thereto, and may transmit them to the registrar in whose district the land is situate, with a certificate signed by him or his deputy, or by some other person named by him for the purpose, setting forth the particulars of the liability or indebtedness, including the total amount thereof, with the rate of interest to be paid thereon, the names of the persons liable or indebted therefor, and the land to be charged thereby; and the registrar, when registering the letters patent of the land, shall make the necessary entries respecting the said indebtedness in the proper register or other record book in his office, and thereafter the said indebtedness shall be and remain a charge upon the land until satisfied and extinguished according to law.

Relief from Crop Failure

S.C. 1908 7-8 Edward VII c. 20 s.76-k

> k) make such orders as are deemed necessary to carry out the provisions of this Act, according to their true intent, or to meet any cases which arise, and for which no provision is made in this Act; and further make any regulations which are considered necessary to give the provisions of this section full effect;

O.C. 2 September 1914 (2255)

The Committee of the Privy Council have had before them a report, dated the 24th August, 1914, from the Acting Minister of the Interior, stating that owing to widespread failure of crops in the Moose Jaw, Swift Current, Maple Creek, Medicine Hat and Lethbridge Land Districts, it has become necessary for numbers of the settlers to leave their lands for the purpose of securing employment, and the intervention of the government has also become necessary to provide such settler with work, and in some instances with immediate relief in order to prevent hardship to themselves and their families.

The Minister recommends that under the authority of subsection k) of section 76 of the *Dominion Lands Act,* 1908, all holders of entries on Dominion Lands in the five districts above mentioned, who have land broken or under crop in 1914, and who were forced to seek employment as above set forth, be allowed to count as performance of residence duties, any portion of the year 1914 during which they were employed elsewhere.

The Minister further recommends that this be limited to cases of entrants who are actually in a destitute condition owing to crop failure, and further that it should apply only to entries granted prior to the 1st of August, 1914.

The Committee submit the same for approval.

O.C. 21 October 1922 (2181)

Whereas the Minister of the Interior submits that following the report of what is generally known as The Better Farming Commission of the Province of Saskatchewan, and the report of the Survey Board of the Province of Alberta, he has been in communication with the Governments of the Provinces of Saskatchewan and Alberta on the various subjects dealt with in the reports of the Commission and the Survey Board, particularly as regards the recommendations dealing with the problem of the removal of settlers, who have suffered repeated crop failures, to other districts where the prospects for an adequate return for their labour seem more assured;

And whereas the matter of the expenses connected with the transfer of settlers from Southern Alberta and Saskatchewan to the northern parts of these Provinces is being dealt with by the Minister of Agriculture, and negotiations are in progress with the railway companies and the provincial authorities as to the basis on which such expenses are to be met;

And whereas it is advisable that provisions should be made for placing settlers who may be removed from the drought-stricken area in pursuance of any understanding which may be arrived at in that behalf with the Governments of Saskatchewan and Alberta;

Therefore, the Deputy of His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, and under and by virtue of the provisions of Subsection k) of Section 76 of the *Dominion Lands Act*, Chapter 20 of the Statutes of 1908, is pleased to approve the following Regulations and the same are hereby approved accordingly:—

Regulations

1. Where Crown patents have been issued under the provisions of the *Dominion Lands Act*, the person to whom such patents were issued may, with the permission of the Minister of the Interior, reconvey to His Majesty the King in the right of the Dominion of Canada the land described in such patent, and upon furnishing a satisfactory reconveyance—free of all encumbrances, the person so reconveying may be permitted to select a like area—quarter-section for quarter-section, of vacant and available Dominion Lands in another district and have the same recorded in his name in the books of the Agent of Dominion Lands for the district.

2. The person making selection of land under the preceding Section shall be required to demonstrate his good faith by performing settlement duties including residence and cultivation or the maintenance of live stock, to the satisfaction of the Minister of the Interior, during a period of twelve months subsequent to such selection.

3. Upon evidence being furnished satisfactory to the Minister of the Interior that the provisions of Clauses one and two of these Regulations have been complied with, a patent for the land so selected may be issued in the name of the original patentee.

4. In any case where a settler has exhausted his homestead right by obtaining a patent from the Crown, but has lost the land or has encumbered his holding so that he is not in a position to furnish a reconveyance free of encumbrance, the Minister of the Interior may, in his discretion, grant to such person authority to select a quarter-section of vacant and available Dominion Lands and have the same recorded in his name in the records of the local Agent of Dominion Lands as a provisional reservation, with the object of having such land set apart for him until the necessary legislation can be obtained providing for the terms upon which a patent may be earned.

5. In the case of a holder of an entry on Dominion Lands, whether the settlement duties in connection with such entry have been fully performed or not, such settler may be permitted to transfer his entry to a vacant and available quarter-section of Dominion Lands with credit for all settlement duties performed by him prior to such transfer.

6. The Minister of the Interior may make such orders as he may deem necessary from time to time for the interpretation and effective administration of these Regulations.

O.C. 9 May 1923 (818)

Whereas the Minister of the Interior submits that in pursuance of the reports of "The Better Farming Commission," of the Province of Saskatchewan, and the "Survey Board" of the Province of Alberta, the Order in Council of the 21st October, 1922, P.C. 2181, gave effect to regulations governing the removal of settlers in the drought-stricken areas of the provinces mentioned, who have suffered repeated crop failure, to other districts where the prospects for an adequate return for their labours seems more assured;

And whereas, upon further consideration it has been found expedient to limit the scope of the said regulations;

His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, is pleased to order that the regulations established by the Order in Council of the 21st October, 1922, P.C. 2181, shall be and the same are hereby rescinded;

His Excellency in Council, on the same recommendation and under the authority of Subsection k) of Section 76 of the *Dominion Lands Act*, is pleased to make the following regulations and the same are hereby made and established accordingly:

Regulations

1. The provisions of these regulations shall apply only to settlers actually located in that part lying south of the south boundary of Township thirty-one, of the tract of land known as the pre-emption and purchased homestead area, and defined by subsection 1 of section 27, Chapter 20, 7-8 Edward VII (*Dominion Lands Act*, 1908).

2. A settler applying for the benefits to be derived under these regulations shall,

a) be required to divest himself of title of all his real property in the tract defined herein, and furnish a certificate from the Government of the province to the effect that he is qualified to benefit hereunder;

b) be entitled to select not more than one quarter-section of vacant and available Dominion Lands of a class suitable for agricultural purposes outside the part of the pre-emption and purchase homestead area to which Section one of these regulations applies, and to have the same recorded in his name in the records of the Agent of Dominion Lands for the district as a provisional reservation, with the object of having such land set apart for him until legislation can be obtained providing for the earning of patent for such location upon the completion of the settlement duties prescribed in the case of an ordinary homestead entry on Dominion Lands.

3. Nothing in these regulations shall be held to impair the rights of settlers who may have already been granted any rights or privileges under the Order in Council of the 21st October, 1922, P.C. 2181, or who, in pursuance of Departmental commitments, have established a right to benefit under such regulations.

4. The Minister of the Interior may make such orders as he may deem

necessary from time to time for the interpretation and effective administration of these regulations.

O.C. 21 October 1925 (1811)

Whereas by Section 2 of Chapter 44 of the Statutes of 1923, (13-14 George V) provision was made as follows:

> Provided further that notwithstanding anything contained in this subsection any person who, on the first day of January, 1923, had obtained letters patent for a homestead, within that part lying south of the south boundary of township thirty-one of the tract known as the pre-emption and purchased homestead area, and defined by subsection one of section twenty-seven of the *Dominion Lands Act*, but who is no longer the owner of a farm, may, in the discretion of the Minister, be granted the right to make entry for another homestead subject to the provisions of this Act, upon submitting proof of his *bona fides* as a settler in the form of a certificate from the Government of the Province setting forth that the said applicant conscientiously endeavoured to farm his land but failed because of circumstances not favourable to successful agriculture.

And whereas the Acting Minister of the Interior reports that applications have been made by settlers in the Province of Manitoba for similar treatment, and the Government of the Province of Manitoba has recommended that second homesteads be granted to persons who have failed to make a success of farming operations on homesteads already granted to them, because of conditions not favourable to successful agriculture;

Therefore, the Deputy of His Excellency the Governor General in Council, on the recommendation of the Acting Minister of the Interior, is pleased to make the following regulations and the same are hereby made and established accordingly:

Regulations

1. The provisions of these regulations shall apply to any settler in the Province of Manitoba who on the first day of January, 1923, had obtained letters patent for a homestead in the said Province, but who is no longer the owner of a farm.

2. A settler applying for the benefits to be derived under these regulations shall,

   a) submit satisfactory evidence that he has divested himself of title to all his real property in the said Province;

   b) furnish a certificate from the Government of the Province to the effect that he is qualified to benefit hereunder;

   c) be entitled, on presentation of such certificate, to select not more than one quarter section of vacant and available Dominion Lands, of a class suitable for agricultural purposes, and to have the same recorded in his name in the records of the Agent of Dominion Lands for the district as a provisional reservation, with the object of having such land set apart for him until legislation can be obtained providing for the earning of patent for such location upon the completion of the settlement duties prescribed in the case of an ordinary homestead entry on Dominion Lands, subject to the payment of any seed grain indebtedness which may be charged against the land in question.

3. The Minister of the Interior may make such orders as may deem

necessary from time to time for the interpretation and effective administration of these regulations.

O.C. 5 January 1927 (2173)

Whereas the Minister of the Interior represents that certain settlers in the District of Moose Jaw in the Province of Saskatchewan, may be compelled to abandon their farming enterprise owing to the inferior character of their lands;

That in the interests of settlement and for the betterment of the settlers concerned, it is deemed to be advisable to arrange an exchange of their farm holdings for lands more adaptable for agricultural pursuits;

That it is understood that certain contiguous areas, at present granted under lease for grazing purposes, might be more profitably brought under cultivation; and

That it would be in the public welfare to facilitate the removal of the settlers named in the Schedule annexed hereto;

Therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior and under and in pursuance of the provisions of Clause f) of Section 76 of the *Dominion Lands Act*, is pleased to authorize and doth hereby authorize the removal of the said settlers; provided that in case shall an exchange of land be granted, except upon observance of the conditions next following:—

1. Where the land is patented, the applicant will require to execute reconveyance of title to His Majesty in the right of Canada (at his own expense) free of encumbrances.

2. In the case of unpatented land—

   a) where the duties, other than payment of the purchase price and accrued interest, in respect to a pre-emption or purchase homestead, have been completed and proof thereof furnished, the applicant will require to execute a deed of surrender, free from encumbrances;

   b) where the duties, and the payments, if any, as aforesaid, have not been completed, the applicant will require to make a declaration of abandonment of his entry, free of encumbrances.

3. In the case of leased land, the leaseholder will require to surrender in writing, in proper form, the land to be relinquished for the purpose of exchange, subject to payment of the rental due, if any.

4. The persons concerned will severally require to furnish evidence of payment of the municipal and school taxes, if any, assessed against the interest of such person as owner, entrant or lessee, as the case may be, in the land to be surrendered, before an exchange will be permitted.

His Excellency in Council, on the same recommendation is hereby further pleased to order and direct:—

1. That letters patent be issued, without further duties in favour of the person or persons concerned, for the lands allotted to each and all of them severally, where the lands patented to them have been reconveyed in accordance with clause 1 of the preceding section.

2. That transfer of entry be carried out in respect to the person or persons concerned for the lands allotted to each and all of them severally, where the lands held under entry have been surrendered or abandoned in

accordance with clause 2 of the preceding section, subject, however, in the case of subsection a) of the said clause, to payment of the purchase price and accrued interest, if any, and in the case of subsection b) to completion of the unfulfilled duties and payment of the purchase price and accrued interest, if any; with effect, in both cases, from date of original entry.

3. That such lands, the title to which may be reconveyed or surrendered hereunder by the settlers referred to, shall be included in the ranche of the leaseholder to whom such lands are allotted under the proposed exchange, unless the Minister otherwise directs.

Colonization Companies

O.C. 23 December 1881: Plans One and Two

Colonization

Plan Number One

8. Agreements may be entered intc with any company or person (hereinafter called the party) to colonize and settle tracts of land on the following conditions:—

a) The party applying must satisfy the Government of its good faith and ability to fulfil the stipulations contained in these regulations:

b) The tract of land granted to any party shall be in Class D.

9. The odd-numbered sections within such tract may be sold to the party at $2 per acre, payable, one-fifth in cash at the time of entering into the contract, and the balance in four equal annual instalments from and after that time: the party shall also pay to the Government five cents per acre for the survey of the land purchased by it, the same to be payable in four equal annual instalments at the same time as the instalments of the purchase money: interest at the rate of six per cent per annum shall be charged on all past due instalments.

a) The party shall, within five years from the date of the contract, colonize its tract:

b) Such colonization shall consist in placing two settlers on homesteads on each even-numbered section, and also two settlers on each odd-numbered section;

c) The party may be secured for advances made to settlers on homesteads according to the provisions of the 10th section of the Act 44 Victoria, chapter 16. (The Act passed in 1881 to amend the *Dominion Lands Act*).

d) The homesteads of 160 acres shall be the property of the settler, and he shall have the right to purchase the pre-emption lot belonging to his homestead at $2 per acre, payable in one sum at the end of three years from the date of entry, or at such earlier date as he may, under the provisions of the *Dominion Lands Act*, obtain a patent for his homestead,

e) When the settler on a homestead does not take up the pre-emption lot to which he has a right, the party may, within three months after the settler's right has elapsed, purchase the same at $2 per acre, payable in cash at the time of purchase.

10. In consideration of having colonized its tract of land in the manner set forth in sub-section b of the last preceding clause, the party shall be allowed a rebate of one-half the original purchase-money of the odd-numbered sections in its tract.

a) During each of the five years covered by the contract an enumeration shall be made of the settlers placed by the party in its tract, in accordance with sub-section b of clause 9 of these regulations, and for each *bona fide* settler so found therein a rebate of one hundred and twenty dollars shall be credited to the party; but the sums so credited shall not, in the aggregate, at any time exceed one hundred and twenty dollars for each *bona fide* settler found within the tract, in accordance with the said sub-section, at the time of the latest enumeration.

b) On the expiration of the five years an enumeration shall be made of the *bona fide* settlers on the tract, and if they are found to be as many in number and placed in the manner stipulated for in subsection b of clause 9 of these regulations, a further and final rebate of forty dollars per settler shall be credited to the party, which sum, when added to those previously credited, will amount to one-half of the purchase money of the odd-numbered sections and reduce the price thereof to one dollar per acre; but if it should be found that the full number of settlers required by these regulations are not on the tract, or are not placed in conformity with sub-section b) of clause 9 of these regulations then, for each settler fewer than the required number, or not placed in conformity with the said sub-section the party shall forfeit one hundred and sixty dollars of rebate.

c) If, at any time during the existence of the contract, the party shall have failed to perform any of the conditions thereof, the Governor in Council may cancel the sale of the land purchased by it and deal with the party as may seem meet under the circumstances.

d) To be entitled to rebate the party shall furnish to the Minister of the Interior evidence that will satisfy him that the tract has been colonized and settled in accordance with sub-section b of clause 9 of these regulations.

Plan Number Two.

11. To encourage settlement by capitalists who may desire to cultivate larger farms than can be purchased where the regulations provide that two settlers shall be placed on each section (but without diminishing the number of settlers required to be placed within each township), agreements may be entered into with any company or person (hereinafter called the party) to colonize and settle tracts of land on the following conditions:—

a) The party applying must satisfy the Government of its good faith and ability to fulfil the stipulations contained in these regulations.

b) The tract of land granted to any party shall be in Class D.

c) All the land within the tract may be sold to the party at two dollars per acre, payable in cash, at the time of entering into the contract. The party shall, at the same time, pay to the Government five cents per acre for the survey of the land purchased by it.

d) The party shall, within five years from the date of the contract, colonize the township or townships comprised within its tract.

e) Such colonization shall consist in placing sixty-four *bona fide* settlers within each township.

12. In consideration of having colonized its tract of land in the manner set forth in sub-section e of the last preceding clause, the party shall be allowed a rebate of one-half of the original purchase money of its tract.

a) During each of the five years covered by the contract an enumeration shall be made of the settlers placed by the party in its tract, in accordance with sub-section e of clause 11 of these regulations, and for each *bona fide* settler so found therein a rebate of one hundred and twenty dollars shall be repaid to the party; but the sums so repaid shall not, in the aggregate, at any time exceed one hundred and twenty dollars for each *bona fide* settler found within the tract, in accordance with the said sub-section at the time of the latest enumeration.

b) On the expiration of the five years an enumeration shall be made of the *bona fide* settlers placed by the party in its tract, and if they are found to be as many in number and placed in the manner stipulated for in sub-section e of clause 11 of these regulations, a further and final rebate of forty dollars per settler shall be repaid, which sum when added to those previously repaid to the party will amount to one-half of the purchase money of its tract and reduce the price thereof to one dollar per acre. But if it should be found that the full number of settlers required by these regulations are not on the tract, or are not placed in conformity with the said sub-section, then, for each settler fewer than the required number or not settled in conformity with the said sub-section, the party shall forfeit one hundred and sixty dollars of rebate.

c) To be entitled to rebate, the party shall furnish to the Minister of the Interior evidence that will satisfy him that the tract has been colonized and settled in accordance with sub-section e of clause 11 of these regulations.

Official Notice.

13. The Government shall give notice in the *Canada Gazette* of all agreements entered into for the colonization and settlement of tracts of land under the foregoing plans in order that the public may respect the rights of the purchasers.

O.C. 30 June 1886 (251): The Model for Cancellation

The Committee of the Privy Council have had under consideration a Report, dated 22nd June, 1886, from the Minister of the Interior, forwarding a Petition praying for relief to certain Colonization Companies who had entered into an Agreement with the Government for Colonization purposes.

The Committee recommend the adoption of the Report and that authority be granted for carrying of the same into effect in its general terms and as to the Edmonton and Saskatchewan Land Company (Limited) as well.

Department of the Interior

Ottawa, 22nd June, 1886

The undersigned has the honour to state, for the information of Council, that on the 18th December, 1884, the Minister of the Interior received a communication from Mr. Charles William Allen, of Toronto, dated the 15th of the same month, of which a copy is hereto attached, marked "A," enclosing the minutes of a meeting of representatives of colonization companies, held on Wednesday the 5th of November, 1884, in the offices of the Temperance Colonization Society in Toronto, of which a copy is hereto attached, marked "B," at which meeting it will be observed certain of the companies, which had entered into agreements with the Government for the colonization of specific tracts of Dominion Lands in the North-West Territories, resolved to petition for relief, finding themselves unable, owing to circumstances set forth in the petition, to fulfil the obligations devolving upon them under the said agreement.

After a preliminary interview, a deputation representing the colonization companies waited upon Sir David Macpherson, then Minister of the Interior, on the 23rd December, and presented to him the memorial, a copy of which is appended hereto, marked "C," praying that patents might issue to them for lands in their tracts at $1.05 per acre to the extent of the payments which they had already made to the Government, and that for each settler returned at the next Government enumeration as residing upon the tract, and for which rebate is allowable under the agreement entered into between the companies and the Government, 160 acres of land additional. They further asked that the several tracts which they had agreed with the Government to colonize, together with the books and records connected with the same, be surrendered and the agreements cancelled.

The delegates had a meeting with Sir David Macpherson, at which this memorial was presented, and a preliminary discussion of its contents took place, after which they met at the Russell House, Ottawa, on the said 23rd December, 1884, and passed a resolution, of which a copy is hereto attached, marked "D," substituting a request that the expenditures made by the companies should secure them the patents for additional lands at the rate of $1.05 per acre for that portion of the memorial which asked for 160 acres for each settler placed upon the several tracts.

A series of interviews and discussions between the Minister of the Interior and representatives of the colonization companies have taken place on various occasions since, and the time has now arrived when, in the opinion of the undersigned, it is expedient in the public interest that some decision of the question at issue shall be made.

A perusal of the agreement entered into between the Colonization Companies and the Government, of which a copy is hereto attached, marked "E," discloses in brief:—

a) That the form of agreement was founded upon and subject to the Dominion Land Regulations, approved by His Excellency the Governor General in Council, and dated the 23rd day of December, 1881, of which a copy is hereto attached, marked "F".

b) That under the said Regulations the lands which might be granted for Colonization purposes under this agreement must belong to class D.

c) That the price of land in class D was, and is, two dollars per acre.

d) That under clauses 9 and 10 of the said Regulations, and in accordance with Colonization Plan No. 1, agreements were made and entered into with certain individuals and companies, the basis of which agreements was that the price of odd-numbered sections in their several tracts should be two dollars per acre, with five cents per acre additional to cover the cost of survey, the payments to be made in five annual instalments, and the party entering into agreement with the Government to colonize its tract within five years from the date of the contract by placing two settlers on homesteads on each even-numbered section, and two settlers on each odd-numbered section, for the due performance of which condition provision was made for a rebate to the party of one dollar per acre.

After careful perusal of all the correspondence of record in the Department of the Interior having reference to this subject, and a final conference with the representatives of the Colonization Companies, the undersigned observes that the companies must be divided into two separate and distinct classes:—

First. Those which have merely paid the first instalment of forty cents per acre, and have either failed to enter into the required agreement with the Government for the colonization of their tract, or, having entered into the agreement, have failed to proceed actively to place settlers upon the tract as provided by the agreement; and,

Second. The companies which have provided the necessary machinery for prosecuting the work of colonization and have proceeded, with varying degrees of success, to give effect to the purposes of the Government by placing settlers upon the land allotted to them for colonization.

In regard to the first mentioned class, the undersigned is of opinion that immediate steps should be taken to cancel their agreements for non-fulfilment of conditions, and he submits that a fair and reasonable consideration for the moneys they have paid to the Government would be to sell to them, within the tracts allotted to them for colonization, an area of land consisting of unoccupied odd-numbered sections at the disposal of the Government equal to one-half acre for each dollar so paid, that is to say, at the rate of two dollars per acre, which is the regulation price of lands in class D, such odd-numbered sections to be, in each case, of the average quality of the tract forming the subject of the agreement made between the party and the Government, or in respect of which the Minister of the Interior was authorized by Order in Council to enter into agreement with the party; or, as an alternative, they might be offered an allotment, equal in amount to the instalment so paid, of scrip receivable at its face value, in payment of any land open for sale by the Government and unsold. In the case of a company electing to take land, the selection of such land shall be made by some officer appointed for that purpose by the Minister of the Interior; and in the case of a company electing to take scrip, the Minister of the Interior shall be notified to that effect in writing by some one duly authorized by the Company in that behalf on or before the 31st day of August next; and in the event of any company failing to notify the Minister of the Interior on or before the date mentioned, where the company elect to take land or scrip, the Minister of the Interior shall thereupon proceed to cause a selection to be made, as hereinbefore provided, of land to be granted to the company.

In respect to the second class mentioned, the undersigned has come to the conclusion that they have, on the whole, earned for themselves substantial claims upon the consideration of the Government. As a class they honestly and earnestly entered upon the work of colonizing the tracts allotted to them. They have expended large sums of money in promoting immigration to and settlement upon their tracts, the money in the one case being applied in disseminating general information setting forth the advantages of settlement in the North-West, and, in the other, to the construction of saw-mills, grist-mills and other permanent improvements within, as well as building roads and bridges and establishing stage and post lines leading to their several tracts. They represent, and the undersigned has reason to believe from information received from his own officers in the North-West, correctly represent, that while they have been instrumental in inducing a very considerable proportion of the immigration which has taken place into the

North-West during the past two seasons, a comparatively large number of the persons who have been thus brought to the country by their instrumentality have not settled within their tracts, but have taken up homesteads elsewhere on Dominion lands, or have purchased from the Canadian Pacific Railway Company conditions of settlement and cultivation.

In view of these facts, the undersigned caused a letter to be sent on the 24th February last, of which a copy is hereto attached marked "G," to such of the companies applying for modification of the conditions of their agreement as could properly be classified under this head, in which letter, while declining to reduce the price of the land below two dollars per acre, he expressed his readiness to recommend to Council, in the case of any company desiring to close its contracts, that towards the payment of this sum, each settler placed by such company upon lands allotted to them should be credited as a payment of $160, and that such expenditure made by the company as might, in his opinion, have materially conduced to the settlement of the tract should also be so credited.

It would be impossible, as pointed out in the letter of the 24th February last, referred to in the next preceding paragraph, to adopt any general basis of settlement which would be applicable to all the companies, but negotiations have been proceeding with each of them separately, on the basis laid down in the said letter; and those negotiations have in the case of the Edmonton and Saskatchewan Land Company (Limited), reached a point at which the undersigned is able to bring the matter to the attention of Council and propose in regard to it a definite plan of settlement.

The agreement with the Edmonton and Saskatchewan Land Company (Limited), according to the form marked "F," hereto attached, was executed on the 25th May, 1882, and by the said agreement the company undertook the colonization, under plan No. 1 of the Regulations of the 23rd December, 1881, of the following Townships, viz:—Nos. 53 and 54 in Range 23, and Nos. 53, 54, 56 and 57 in Range 24, all West of the Fourth Meridian.

The accounts of the Department of the Interior show that the company have paid to the credit of the Receiver-General of Canada, a sum of $25,210 on account of the purchase money of the odd-numbered sections in their tract, which, of course, stands to their credit in this settlement.

The official enumeration of the settlers on the Company's tract made by Mr. William Pearce, Superintendent of Mines and a member of the Dominion Lands Board, on the 30th of August, 1884, shows that there were within the said tract forty-seven *bona fide* settlers placed therein since the date of the agreement, on account of each of whom, on the basis of the letter of the 24th February last, the company would be entitled to be credited with $160 or a gross sum of $7,520.

The Company submitted to the undersigned in March last a statement of their general expenses, amounting to $34,767.85, with which they claimed they were entitled to be credited as being an expenditure which had "materially conduced to the settlement of the tract." A copy of that statement, the details of which are certified under affidavit to be correct by Mr. Benjamin Morton, of Toronto, accountant, is hereto attached, marked "H."

The company have also, according to the reports hereinbefore quoted of the Superintendent of Mines, and the representations of the company's own officers, expended large sums in the development and improvement of their tract, consisting of a bridge, ferry, buildings and plant, to the value of $25,521.02.

Upon careful examination and consideration, the undersigned has come to the conclusion that the items of the statement, marked "H," which are numbered respectively 4, 6, 10 and 11 being (4) $48.44 for bank, and other charges, (6) $2,150.00 for preliminary expenses (10) $374.45 for legal expenses, and (11) $13,996.00 for interest, are not expenditures of a nature entitling the Company to be credited with them or any portion of them, and he submits that the said items, amounting to a gross sum of $16,568.89 should be disallowed; but that the items numbered respectively 1, 2, 3, 5, 7 and 9, being (1) $243.02 for advertising, printing and stationery; (2) $3,043.24 for travelling expense; (3) $2,114.14 for transportation and road work; (5) $260.13 for office expenses, postage, telegrams, &c; (7) $12,436.43 for salaries; and (9) $102.00 for agencies, and also the value of the bridge, ferry, buildings, plant, etc., placed upon the company's tract, namely, $25,521.02 are expenditures which may, to some extent, be regarded as having "materially conduced to the settlement of the tract," and he submits that of the gross amount of the said items, namely, $43,719.98 there might fairly be credited to the company a sum of $17,700.00, which would be but slightly in excess of one-third of the amount of the expenditures which have contributed to some extent, as already stated, to the settlement of the tract.

The sums with which the Edmonton and Saskatchewan Land Company (Limited) should thus, in the opinion of the undersigned, be credited, as payments towards the price of the land, would be—

Paid to the credit of the Receiver General of Canada	$25,210.00
47 settlers, to be credited as $160 each	7,520.00
Proportion of general expenditure and expenditure upon bridge, ferry, buildings, plant, &c.	17,700.00
Total:	$50,430.00

This would entitle the company to receive letters patent for 25,215 acres of land, at the rate of two dollars per acre; and the undersigned recommends that he be authorized to issue to the company letters patent for that area accordingly in full and final settlement of the account, such land to be selected by an officer to be named for that purpose by the Minister of the Interior, from odd-numbered sections within the company's tract not occupied or disposed of at the date of the company's agreement with the Government, and of the average quality of the land composing the said tract, of which the Minister of the Interior shall be the sole judge; and when the lands to be granted to the company shall have been so selected, the company shall surrender to the Government the balance of their tract and return to the said Minister their agreement with the Government for the colonization of the said tract, which agreement shall thereupon be cancelled, and its provisions shall in all respects and for all purposes be determined.

All of which is respectfully submitted.

Some Influences of the War Measures Act

On Eligibility for Entry

O.C. 14 December 1916 (2614)

His Excellency the Administrator in Council, under the provisions of the

War Measures Act, 1914, is pleased to make the following regulation and the same is hereby made and established accordingly:—

1. Notwithstanding any provision in the *Dominion Lands Act* or in any act amending the same, during the present war and thereafter until otherwise ordered, no application for an entry for a homestead shall be granted unless the person making the application was at the commencement of the present war, and has since continued to be, a British subject or a subject of a country which is an ally of His Majesty in the present war, or a subject of a neutral country, and unless he establishes the same to the satisfaction of the Minister of the Interior.

O.C. 5 March 1917 (561)

Whereas it is provided by section 7 of the *Dominion Lands Act*, that no land shall be open for entry for a homestead or otherwise until it has been surveyed in accordance with the provisions of the *Dominion Lands Surveys Act*, and notice that it is to be open for entry upon a date to be set forth in the notice has been posted for at least thirty days in the land office for the district in which the land is situate, and has been published in at least one newspaper in that district and in one newspaper in the provincial capital.

And whereas it is also provided by regulation of the Department of the Interior that in certain cases where entries have been cancelled, or where lands which have been under reservation are released from such reservation, the lands affected shall before being made available for the general public, be posted for at least ten days in the Land Office for the district, also in the sub-office at which departmental business may be transacted for the district, and in the post office nearest to the land.

And whereas the attention of the Minister of the Interior has been drawn to the handicap experienced by returned soldiers who may be suffering to a certain extent from physical disability, when making application for entry for Dominion lands in competition with the general public;

And whereas the Minister of the Interior is of opinion that it is desirable that provision should be made whereby any returned soldier, as hereinafter defined or specified, who desires to make application for such entry, should have priority for a period of one day from and following the hour at which land becomes available after having been advertised or posted, as hereinafter set forth; provided, however, that any such applicant must be eligible under the *Dominion Lands Act* and the amendments thereto, or of regulations thereunder, for entry of the class for which he intends to make application, and, further, that he must be prepared to fulfil the settlement conditions thereby prescribed.

Therefore his Excellency the Governor General in Council under and in virtue of the provisions of section 6 of the *War Measures Act*, 1914, is pleased to make the following regulations and the same are hereby made and established accordingly:—

1. From and after a date to be fixed by the Minister of the Interior, wherever any parcel or parcels of Dominion Lands becomes available for entry as hereinbefore set forth, after having been advertised or posted according to the provisions of the *Dominion Lands Act*, as amended, and of any regulations thereunder, a period of one office day shall be allowed, immediately following the expiry of the term of advertising or posting, during the office hours of which day the right of making entry for such

parcel or parcels of Dominion lands shall be restricted to returned soldiers who have served overseas during the present war with the military or naval forces of Great Britain, or with any of the Allies of Great Britain; who have been honourably discharged therefrom, and who are present in person at the office of the local Agent for the district for the purpose of making entry. An application for entry by any of these soldiers shall be made, received and dealt with in all respects, except as herein provided, under the provisions of the said Act, as amended, and regulations then in force. Each of such returned soldiers applying for entry on the day above mentioned shall submit for the inspection of the Agent of Dominion Lands for the district in which the land so applied for is situate, his certificate of honourable discharge from military service of the nature before referred to; failing which his application for entry shall not be accepted on that day.

2. In the case of more than one returned soldier being present at the opening of the Land Office on the day above referred to, priority as between the respective applicants shall be decided under the then existing regulations in that behalf.

3. No concessions shall be extended to a returned soldier who applied for entry at the office of any subagent of Dominion Lands.

4. Upon the opening of the Land Office for the district, on the day immediately following the period set apart for receiving applications for entry from returned soldiers, as above set forth, the disposal of any of such parcels of land remaining unentered for, shall proceed in the manner provided for by the then existing *Dominion Lands Act* as amended, and regulations thereunder.

5. In the event of any question being raised as to the interpretation of any of the foregoing regulations, the Minister of the Interior is authorized to decide such question in such manner as he may deem just, having in view the circumstances of the case.

O.C. 3 April 1917 (918)

Whereas, under the provisions of the *War Measures Act*, 1914, the following Regulation was made and established by Order in Council of 14th December, 1916, viz:—

> Notwithstanding any provision in the *Dominion Lands Act* or in any Act amending the same, during the present war and thereafter until otherwise ordered, no application for an entry for a homestead shall be granted unless the person making the application was at the commencement of the present war, and has since continued to be, a British subject or a subject of a country which is an ally of His Majesty in the present war, or a subject of a neutral country, and unless he established the same to the satisfaction of the Minister of the Interior.

And whereas it has been represented that a number of Ruthenians who have become naturalized as British subjects since the outbreak of the present war have enlisted for active service with the Canadian Expeditionary Forces:

Therefore, His Excellency the Governor General in Council, by virtue of the authority vested in him by the *War Measures Act*, 1914, is pleased to order that the above mentioned Order in Council of the 14th December, 1916, shall be and the same is hereby amended by adding the following words at the end thereof:—

The provisions of this paragraph shall not apply to members of the Canadian Expeditionary Forces.

O.C. 3 November 1917 (3027)

His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior and under and in virtue of the provisions of the *War Measures Act*, 1914, is pleased to order as follows:—

The regulations established by Orders in Council of the 14th day of December, 1916, (P.C. 2614) and the 3rd day of April, (P.C. 918), are hereby repealed and the following regulation is substituted therefor:—

1. Notwithstanding any provision in the *Dominion Lands Act* or in any Act amending the same, during the present war and thereafter until otherwise ordered no application for an entry for a homestead shall be granted unless the person making the application was at the commencement of the present war, and has since continued to be, a British subject or a subject of a country which is an ally of His Majesty in the present war, or a subject of a country which is now a neutral country, and unless he establishes the same to the satisfaction of the Minister of the Interior.

The provisions of this regulation shall not apply to any alien born person who has become naturalized as a British subject since the commencement of the present war and who as been appointed to, or has enlisted in or joined the Canadian Expeditionary Forces, and who is either a member of such forces or has been honourably discharged therefrom, or, in the case of an officer, has been permitted to resign or without fault on his part has had his services dispensed with.

O.C. 20 February 1918 (401)

Whereas under the authority of the Order in Council of fifth March, 1917, men who have served overseas during the present war with the naval or military forces of His Majesty or any of His Majesty's allies who produce a certificate of honourable discharge from such forces, are granted the right of making entry to any parcel or parcels of Dominion land one day in advance of the time fixed for the general public;

And whereas it has been represented that men who have served overseas and who have been incapacitated for further service are unable, in some cases, to secure promptly an official certificate of discharge and are, therefore, prevented from taking advantage of the benefits conferred as aforesaid;

And whereas it is deemed desirable that the said benefits should also be extended to any person who has served overseas as aforesaid and is suffering from physical disability rendering him unfit for further military service and who, while unable to produce a certificate of honourable discharge, produces such evidence as is deemed satisfactory by the Minister of the Interior that his service in any of such forces has been an honourable one,—

Therefore His Excellency the Governor General in Council, to effect this purpose, is pleased, on the recommendation of the Minister of the Interior and under and by virtue of the provisions of the *War Measures Act*, 1914, to make the following Regulation and the same is hereby made and enacted accordingly:—

Regulations

1. The benefits conferred by the Order in Council, dated the fifth day of March, one thousand nine hundred and seventeen (P.C. No. 561) are

hereby extended to any person who has served overseas in the naval or military forces of His Majesty or of any of His Majesty's allies in the present war, who has been incapacitated for further service and who, while unable to produce a certificate of honourable discharge, produces evidence satisfactory to the Minister of the Interior that his record of service in any of such forces is an honourable one.

On Homestead Duties

S.C. 1908 7-8 Edward VII c. 20 ss. 22 & 23

22. Notwithstanding anything in this Act, the time during which an entrant is absent from his homestead while he is a member of a military force enrolled under the authority of the Minister of Militia and engaged as a member of that force in the suppression of an outbreak or insurrection in any part of the British Empire, or in the defence of the British Empire against a foreign power, or is a member of a company or contingent of Canadian volunteers enrolled under the authority of the Minister of Militia for active service, and also a period, not exceeding three months after his discharge as a member of the said force, company or contingent, to permit him to resume his residence upon his homestead, may be counted as residence upon his homestead, within the meaning of this Act.

23. If it is established to the satisfaction of the Minister that an entrant, while on active service as a member of any such force, company or contingent, is so disabled by wounds received in battle, or because of illness resulting therefrom, or from any other cause, after his enrolment as a member of such force, company or contingent and up to the date of his discharge therefrom, that it is not possible for him, because of such wounds or illness, or other cause, to resume occupation of his homestead and complete the conditions of his entry therefor, the Minister may forthwith issue letters patent for the homestead in his favour.

O.C. 8 May 1915 (1043)

Whereas it is but fair and reasonable that the relief which may now be granted to a homesteader who is a member of a military force such as is specified in section 22 of the *Dominion Lands Act* for the causes mentioned in that section or in section 23 of that Act, should also be granted to any homesteader who, whether he is an alien or a British subject by birth or naturalization, has been serving or is now serving or who may hereafter serve as a member of any military force, regiment, company or corps of Great Britain or in any military force, regiment, company or corps of the Allies of Great Britain in the present war in Europe, Africa or elsewhere, in defence of the British Empire and Allies, and who because of his being a member of any such military force, regiment, company or corps; or of wounds received; or of illness resulting therefrom; or from any other cause after and because of his enrolment as a member of any military force, regiment, company or corps, is unable to resume occupation of his homestead, or to complete the conditions of his entry therefor; and further, that in the event of the death of any such homesteader similar relief should be granted to his legal representatives,—

Therefore His Royal Highness the Governor General in Council, by and with the advice of the King's Privy Council for Canada, and under the authority of subsection 1 of section 6 of the Act intituled the *War Measures Act*, 1914, 5 George V, chapter 2, section 76 of the *Dominion Lands Act*, paragraph k) is pleased to order, and it is hereby ordered as follows:—

The relief in such case, as are hereinbefore alluded to, where the homesteader is unable to resume occupation of his homestead, may be either relief from further cultivation of the homestead, or from further residence thereon, or from both, as to the Minister of the Interior or to any Acting Minister of the Interior may appear fair and reasonable; and where all further conditions of entry are so dispensed with the Minister of the Interior, or any Acting Minister of the Interior may direct the immediate issue of letters patent for the homestead in favour of the homesteader.

Similar relief and action may be authorized in favour of the legal representatives of a homesteader who dies because of wounds or illness, as before specified.

O.C. 28 February 1917 (555)

Whereas applications have been made to the Minister of the Interior to extend the provisions of the Orders in Council hereinafter referred to, which at present only protect the holders of homesteads, to pre-emptions and purchased homesteads;

Therefore His Excellency the Governor General in Council, under and in virtue of the provisions of the *War Measures Act*, 1914, is pleased to make the following regulations and the same are hereby made and enacted accordingly:

1. The terms and provisions of the following Orders in Council, viz: of the 8th May, 1915, (P.C. 1042); the 20th September, 1915, (P.C. 2150); the 9th December, 1915, (P.C. 2888); and the 12th January, 1916, (P.C. 33), shall be applicable to pre-emptions and purchased homesteads, that is to say, the relief which may be granted under the authority of the said Order in Council of the 8th May, 1915, with respect to the further residence upon or further cultivation of his homestead to any home-steader who is or has been a member of any of the military forces mentioned or referred to in that Order in Council as defined by the said Order in Council of the 20th September, 1915, or to his legal representatives in such order; the protection of the entry of any such homesteader provided for by the said Order in Council of the 9th December, 1915, and the benefit afforded to any such homesteader by the amendment of the regulations as to entries by proxy authorized by the said Order in Council of the 12th January, 1916.

Provided always that in all cases, before a patent is issued for a pre-emption or purchased homestead, all payments of principal and interest shall be made and completed as prescribed by the *Dominion Lands Act* and the amendments thereto.

O.C. 11 September 1917 (2509)

Whereas under Orders in Council dated the 8th May, 1915, and the 20th September, 1915, any homesteader who is a member of a military force, such as is specified in section 22 of the *Dominion Lands Act*, may count the time spent while under enrolment as residence upon his homestead within the meaning of the *Dominion Lands Act*;

And whereas consequently when an entrant has been on active service for a sufficient length of time to fulfil the requirements of the Act with respect to residence, he would be entitled to a patent for the land on proving in the usual way that he has complied with the conditions attached to his entry with respect to cultivation and the erection of a habitable house;

And whereas homesteaders are now serving in His Majesty's naval, military and militia forces, and in the forces of His Majesty's allies, in consequence of the present war, and may in consequence be unable to erect houses upon their homesteads; and in such cases it may be just and reasonable to waive the provisions of the law requiring the erection of a house on a homestead before a patent issues for the land.

Therefore the Governor General in Council, on the recommendation of the Minister of the Interior and under the provisions of the *War Measure Act*, 1914, is pleased to make the following regulation and the same is hereby made and enacted accordingly:—

Where the entrant for any homestead is serving in His Majesty's military, naval or militia forces, or in the forces of any of His Majesty's allies, during the present war, the Minister may relieve such entrant from the necessity of erecting a house upon his homestead before such entrant is granted a patent for the land.

O.C. 7 March 1918 (538)

Whereas on the 8th of May, 1915, an Order in Council was passed (P.C. No.1042) under the authority of the *War Measures Act*, 1914, purporting to extend the benefit of the provisions of section 22 and section 23, of the *Dominion Lands Act* to homesteaders who have served with the Military forces of His Majesty, or of the allies of His Majesty in the present European War, but in the enacting part of the said Order in Council reference is made only to homesteaders who are unable to resume occupation of their homesteads, and the Order in Council, therefore, only extends the benefit of the provisions of section 23 of the *Dominion Lands Act* to the class of homesteaders above referred to.

Therefore His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior and under the authority of the *War Measures Act*, 1914, is pleased to make the following regulation and the same is hereby made and enacted accordingly:

Regulation

Any person who has been on active service in the naval or military forces of His Majesty or of His Majesty's Allies during the present war shall be entitled to all the benefits and privileges conferred by sections twenty-two and twenty-three of the *Dominion Lands Act* upon the members of military forces and of the Canadian volunteers in the said sections mentioned.

This regulation shall be deemed to have come into force and operation on the eighth day of May, one thousand nine hundred and fifteen.

O.C. 14 August 1919 (1706)

Whereas the Minister of the Interior reports as follows:—

By section 14 of the *Dominion Lands Act*, chapter 20 of the Statutes of 1908 (amended by section 26 of the *Dominion Lands Act*, chapter 19 of the Statues of 1918), provision was made for the ownership and maintenance by the holder of homestead, pre-emption or purchased homestead, as the case may be, of a specified number of stock in each year in lieu of cultivation in order to qualify for letters patent;

By section 22 of the *Dominion Lands Act*, chapter 20 of the Statutes of 1908 (amended by section 6 of the *Dominion Lands Act*, chapter 19 of the Statutes of 1918), provision was made whereby an entrant absent from his homestead, pre-emption or purchased homestead, as the case may be, while a member of a military force as provided therein, might count his period of military service as residence;

Provision has been made in the case of such an entrant for earning patent by doing cultivation in one or two seasons, as the case may be, but no provision has been made for a similar concession where the entrant cannot cultivate the required area, and desires to substitute the ownership of live stock as above set forth,—

Therefore the Deputy Governor General in Council, under the authority of sub-section k) of section 76 of the said Act, is pleased to make the following regulation, and the same is hereby made and adopted accordingly:—

1. If a returned soldier-entrant has one full period of six months military service to his credit, he will require to show ownership of stock during two years only, provided that he shall be the owner of at least 16 head of live stock when he makes application for patent and complies with the other conditions, as to fencing and the erection of buildings.

2. When he has military service sufficient to credit him with the required period of six months residence in each of two or more homestead terms, he will require to show ownership of live stock numbering not less than 16 head during one season only, in addition to having the necessary buildings and fencing.

(This would be applicable also in the case of purchased homesteads).

3. In the case of pre-emptions a returned soldier-entrant may be dealt with on the same basis, except that when making application for patent he will require to furnish proof of ownership of 24 head of live stock, with buildings and fencing as provided by the *Dominion Lands Act*.

On Agricultural Production

O.C. 28 February 1917 (560)

Whereas owing to enlistment for overseas service there is now throughout Canada a great scarcity of farm labourers which, coupled with the diminution of land prepared for seed, will result in greatly decreased acreage under cultivation unless steps are taken to improve the condition in this regard; and

Wherefore it is believed that there are in Canada and the United States many young men who would work as farm labourers if the time so spent were allowed to count as residence upon homesteads entered for by them; it being recognized that by working for a farmer who has all necessary stock and machinery, young men of the class mentioned would help to augment the agricultural output to a much greater extent than if they spent their time on their homesteads hampered by lack of stock or machinery;

Therefore the Deputy Governor General in Council, in view of the foregoing, is pleased, under and by virtue of the authority conferred upon him by section 6 of the *War Measures Act*, 1914, to make the following Order and Regulations and the same are hereby made and enacted, accordingly:—

Notwithstanding anything contained in the *Dominion Lands Act* or the amendment thereto, during the remainder of the year 1917 the holders of homestead, pre-emption or purchased homestead entries who are employed as farm labourers within the Dominion of Canada allowed the period of such employment as a like per residence in connection with their respective entries, subject to the following conditions,—

1. The time of employment to be counted as residence duties must be subsequent to the actual date of entry in each case.

2. The provisions of this order shall not apply to unperfected proxy entries, nor to any case in which the entrant is engaged in any other employment than actual farm labour.

3. As soon as possible after the entrant commences work, it shall be his duty to forward to the Agent of Dominion Lands for the District in which his land is situated, sworn evidence satisfactory to the Minister of the Interior giving particulars of the land held under entry, the nature of the work performed, where performed, date of commencement, and probable duration.

4. Within thirty days after the term of employment has expired, and in any case, not later than the 1st of February, 1918, the entrant shall file with the local agent for the district sworn evidence satisfactory to the Minister of the Interior, of time actually spent on farm work.

5. In the event of the cancellation of any entry for default in the performance of the condition thereof, nothing in this order shall be held to confer any right or claim upon the former holder of any such entry who, being engaged in farm labour in Canada as aforesaid, has failed, prior to the date of cancellation, to notify the Agent of Dominion Lands for the district of the fact of his being so engaged.

6. The entry of any person complying with the foregoing provisions shall not, during the period of his employment on farm labour, be liable to cancellation by reason of his failure to perform the cultivation required in connection with his entry.

7. Notwithstanding anything contained in the *Dominion Lands Act* or the amendments thereto, the cultivation required to earn patent in such cases may be performed in two years instead of three.

8. In any case in which the Minister of the Interior is not satisfied as to the *bona fide* of the case, he is authorized to withhold the benefits provided for by the foregoing.

O.C. 7 March 1918 (459)

Whereas under the authority of the *War Measures Act*, 1914, an Order in Council was passed on the 28th day of February, 1917, providing that notwithstanding anything contained in the *Dominion Lands Act*, or the amendments thereto, during the remainder of the year 1917, the holders of homestead pre-emptions or purchased homestead entries, who were employed as farm labourers within the Dominion of Canada, might be allowed the period of such employment as part of the required period of residence in connection with their respective entities, subject to certain conditions therein laid down.

And whereas, owing to the continued enlistment for Overseas Service, there is now throughout Canada a great scarcity of farm labourers which coupled with the diminution of land prepared for seed, will result in greatly decreased acreage under cultivation unless steps are taken to improve the condition in this regard;

Therefore His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, is pleased, under the provisions of the *War Measures Act*, 1914, to make the following regulations, and the same are hereby made and enacted accordingly;

Regulations

1. Notwithstanding anything contained in the *Dominion Lands Act* or the amendments thereto, during the remainder of the year 1918, the holders of homestead pre-emptions or purchased homestead entries, who are employed as farm labourers within the Dominion of Canada, may be allowed the period of such employment as part of the required period of residence in connection with their respective entries, subject to the following conditions:—

a) The time of employment to be counted as residence duties must be subsequent to the actual date of entry in each case. No settler claiming the benefit of the provisions of the Order in Council of the 28th February, 1917, and of these regulations, shall be given credit in connection with his entry, by reason of his having been engaged in farming operations during the years 1917 and 1918, for more than two terms of residence of six months each, and any settler who is thus allowed the maximum credit in connection with his entry, shall be required to show, before his residence duties shall be deemed complete, that he has performed six months' actual residence either on the land held by him under entry, or in the vicinity therefor, in accordance with the provisions of the *Dominion Lands Act*, and regulations thereunder.

b) The provisions of this Order shall not apply to unperfected proxy entries, nor to any case in which the entrant is engaged in any other employment than actual farm labour.

c) As soon as possible after the entrant commences work, it shall be his duty to forward to the agent of Dominion Lands for the district in which his land is situated, sworn evidence satisfactory to the Minister of the Interior, giving particulars of the land held under entry, the nature of the work performed, where performed, date of commencement and probable duration.

d) Within thirty days after the term of employment has expired and in any case, not later than the 1st of February, 1919, the entrant shall file with the local agent of the district sworn evidence satisfactory to the Minister of the Interior, of the time actually spent on farm work.

e) In the event of the cancellation of any entry for default in the performance of the conditions thereof, nothing in this Order shall be held to confer any right or claim upon the former holder of any such entry who, being engaged in farm labour in Canada as aforesaid, has failed, prior to the date of cancellation, to notify the agent of Dominion Lands for the district of the fact of his being so engaged.

f) The entry of any person complying with the foregoing provisions shall not, during the period of his employment on farm labour, be liable to cancellation by reason of his failure to perform the cultivation required in connection with his entry.

g) Notwithstanding anything to the contrary in the *Dominion Lands Act* or any amendments thereto, the cultivation required to earn a patent where the entrant obtains the benefit of this regulation may be performed in two years instead of three. Settlers claiming the benefit of the similar provision with respect to cultivation, under the Order in Council of the 28th February, 1917, referred to, shall not be entitled to further reduction in the cultivation requirements in connection with their entries by reason of the provisions of this paragraph.

h) In any case in which the Minister of the Interior is not satisfied as to the *bona fide* of the case, he is authorized to withhold the benefits provided for by the foregoing.

O.C. 8 March 1918 (37-563)

Whereas under the provisions of subsection six of section eleven, subsection nine of section fifteen and section thirty-one of the *Dominion Lands Act*, every entry for a homestead, pre-emption or purchased homestead shall be for the sole use and benefit of the entrant and neither directly or indirectly for the use or benefit of any other person or persons whomsoever, and every assignment by the entrant of any interests in or control of the land for which he holds entry prior to the issue of letters patent for such land is, unless the Minister of the Interior otherwise declares, null and void and renders the rights of the entrant liable to forfeiture and constitutes an indictable offence;

And whereas certain areas of homestead lands which were formerly under cultivation have of late been lying idle, the entrant being on military service and unable to cultivate the land or to make any lease thereof to parties who would be in a position to cultivate the same.

And whereas the Minister recommends that power be granted to the Minister of the Interior, under the conditions hereinafter set out, to authorize the leasing of unpatented Dominion lands held under entry, with a view to increasing agricultural production, where the entrant is on active military or naval service, or where he is engaged in work deemed by the Minister to be of national importance, and also where the entrant has died or is insane;

Therefore His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior and under the provision of the *War Measures Act*, 1914, is pleased to make the following regulations and the same are hereby made and enacted accordingly:—

Regulations:

1. Notwithstanding any provision to the contrary in the *Dominion Lands Act*, unpatented Dominion lands held under entry may be leased.

a) Where the entrant is on active service in the military or naval forces of His Majesty or in the military or naval forces of any of the allies of His Majesty during the present war;

b) Where he is engaged in some work deemed by the Minister to be of national importance;

c) Where the entrant is deceased or is insane; or

d) Where the entrant has been relieved from residence under subsection two of section twenty of the *Dominion Lands Act*;

subject, however, to the provisions of these regulations and of any regulation or order made by the Minister of the Interior hereunder.

2. Unless written authority therefor is given by the Minister, no lease shall be made under the provisions of these regulations for a period which, in the opinion of the Minister of the Interior, exceeds the probable duration of the entrant's military service or his employment as aforesaid during the present war, and, in addition, for six months thereafter.

3. Any lease hereunder may be made either by the entrant himself, by his legally constituted attorney or legal representative, or by some person acting for the entrant or his estate who is approved of by the Minister.

4. A lease of unpatented Dominion Lands held under entry shall not have any legal force or effect until it has been approved by the Minister, and when the approval of the Minister is applied for, a triplicate copy of the lease shall be filed with him. The Minister may from time to time prescribe within what time after the execution of a lease it shall be submitted to him for his approval.

5. Where the lease is cancelled, either by mutual agreement or through the non- fulfilment of the conditions thereof, due notice shall be given to the Minister by the lessor, and satisfactory evidence of the cancellation of the lease shall be submitted to the Minister.

6. Where the entry for the land with respect to which any lease may have been made is cancelled for any reason, unless the Minister otherwise orders, all the provisions of such lease, relating to the possession and control of the land and to any permanent improvements affected thereon shall become null and void, and the lessee shall at once vacate the land.

7. The breaking and cultivating of the land held under entry, the erection of permanent improvements, and, in cases where the entrant has been granted the privilege of substituting stock in lieu of cultivation, the maintenance of live stock on such land, by the lessee during the term of the lease, may be granted to the entrant as fulfilment in part or in whole, as the case may be, of the requirements for obtaining letters patent, provided that such evidence thereof as is satisfactory to the Minister is duly submitted.

8. Where the lease is approved by the Minister and an application for patent is made thereafter by the entrant before the termination of the lease, the Minister may send to the lessee, at his last known address, a notice informing him that such application has been made.

9. Where in the opinion of the Minister of the Interior any lease approved by him under the provisions of these regulations is subsequently found to be for any reason objectionable, the Minister may, by written order, withdraw his approval, and, upon written notice thereof being sent by registered mail to the last known addresses of the lessor and lessee, such lease shall thereupon be deemed to be null and void.

Ordinary Purchase and Sale of Dominion Lands

O.C. 1 March 1871

The provisions hereinafter contained shall only apply to lands which shall have been surveyed.

Unappropriated public lands shall, until further directions, be open for sale at the rate of one dollar an acre.

Payments for lands, whether purchased in virtue of pre-emption rights or in the ordinary manner, shall be made in cash.

O.C. 25 April 1871 (874)

The provisions hereinafter contained shall only apply to lands which shall have been surveyed.

Unappropriated public lands shall, until further directions, be open for sale at the rate of one dollar an acre, but no sale of more than a Section shall be made to any one person.

Payments for lands, whether purchased in virtue of pre-emption rights or in the ordinary manner, shall be made in cash.

S.C.1872 35 Victoria c.23 s.29

Ordinary Purchase and Sale of Lands

29. Unappropriated Dominion lands, the surveys of which may have been duly made and confirmed, shall, except as otherwise hereinafter provided, be open for purchase at the rate of one dollar per acre; but no such purchase of more than a section, or six hundred and forty acres, shall be made by the same person; provided that whenever so ordered by the Secretary of State, such unoccupied lands as may be deemed by him expedient from time to time shall be put up at public sale (of which sale due and sufficient notice shall be given) at the upset price of one dollar per acre, and sold to the highest bidder.

S.C. 1879 42 Victoria c.31 s.30

Ordinary Purchase and Sale of Lands.

30-1. Unappropriated Dominion lands, the surveys of which may have been duly made and confirmed, shall, except as otherwise hereinafter provided, be open for purchase at the rate of one dollar per acre; but no such purchase of more than a section, or six hundred and forty acres, shall be made by the same person: Provided that, whenever so ordered by the Minister of the Interior, such unoccupied lands as may be deemed by him expedient from time to time may be withdrawn from ordinary sale or settlement, and offered at public sale (of which sale due and sufficient notice shall be given) at the upset price of one dollar per acre, and sold to the highest bidder:

30-2. Provided further, that any legal sub-division or other portion of unappropriated Dominion land which may include a water power, harbour or stone-quarry, shall not be open for purchase at the rate of one dollar per acre, but the same shall be reserved from ordinary sale, to be disposed of in such manner, and on such terms and conditions, as may be fixed by the Governor in Council on the report of the Minister of the Interior.

S.C. 1881 44 Victoria c.16 s.4

4. Section thirty of the *Dominion Lands Act*, 1879, is hereby repealed, and the following substituted therefor:—

> 30-1. Unappropriated Dominion Lands, the surveys of which may have been duly made and confirmed, shall, except as otherwise hereinafter provided, be open for purchase at such prices and on such terms and conditions regarding settlement or otherwise as may be fixed from time to time by the Governor in Council: Provided that no such purchase shall be permitted at a less price than one dollar per acre: Provided also, that except in special cases where otherwise ordered by the Governor in Council, no such purchase of more than a section, or six hundred and forty acres, shall be made by the same person: Provided further, that where deemed expedient by the Governor in Council such purchase shall be restricted to the odd-numbered sections in each township: And provided, also, that whenever so ordered by the Minister, such unoccupied lands as may be deemed by him expedient, from time to time, may be withdrawn from

ordinary sale and settlement, and sold at public auction to the highest bidder.

30-2. Provided further, that any legal sub-division or other portion of unappropriated Dominion land, which may include a water power, harbour or stone-quarry, shall be reserved from ordinary sale, to be disposed of in such manner and on such terms and conditions as may be fixed by the Governor in Council on the report of the Minister of the Interior.

C.R.C. 1889 c.97 ss.1-10

Sale of Dominion Lands.

1. The surveyed lands in Manitoba and North-West Territories shall, for the purposes of these regulations, be classified as follows:—

Class A — All lands east of the second Initial Meridian and all lands within and south of the C.P.R. Belt west of the said Meridian.

Class B — All lands not included in Class A.

2. The even numbered sections at the disposal of the Crown in Classes A and B are to be held exclusively for homestead and pre-emption entry, unless in special cases otherwise ordered by the Minister of the Interior, or exempted under the operations of the *Dominion Lands Act*. [See Sub-Section 4, Section 32, Chapter 54 of the *Revised Statutes of Canada*].

3. The odd numbered sections at the disposal of the Crown in Classes A and B and not reserved for or granted to any Railway Company, are to be held exclusively for sale, unless in special cases otherwise ordered by the Minister of the Interior.

4. The price of pre-emptions and of odd numbered sections in Class A shall be $2.50 per acre, and the price of pre-emptions and of odd numbered sections in Class B shall be $2.00 per acre.

5. The Minister of the Interior or the Land Board or the Commissioner of Dominion Lands may in special cases order the reservation of lands for intending settlers on receiving satisfactory assurance that the application for such reservation made by or on behalf of the intending entrant has been made in good faith and with the purpose of actual residence upon the land applied for.

6. In case it is proved to the satisfaction of the Minister of the Interior that a settler has made any false statement in the affidavit in support of his application for entry, his right to the land shall be forfeited and his entry therefor shall be cancelled.

7. The Minister of the Interior may make a free grant of land, not exceeding 40 acres in area, to any religious denomination in Manitoba or the North-West Territories applying therefor in connection with any of their mission stations, provided the land which is the subject to the application is at the disposal of the Government, and is not within any town-site or other reserve.

8. All patents from the Crown for lands in Manitoba and the North-West Territories, shall reserve to Her Majesty, Her Successors and Assigns forever, all mines and minerals which may be found to exist within, upon, or under such lands, together with full power to work the same, and for this purpose to enter upon, and use and occupy the said lands or so much thereof and to such an extent as may be necessary for the effectual working of the said minerals, or the mines, pits, seams and veins containing the same, except in the case of patents for lands which have already been sold or

disposed of for valuable consideration, or for lands which have been entered as homesteads before the date upon which these regulations come into force.

9. The Minister of the Interior may direct the reservation of odd or even numbered sections or of any portions thereof as timber lands or hay lands for the common use of settlers under lease or permit, and may, under the provisions of the *Dominion Lands Act* and these Regulations, grant licenses to cut timber upon Dominion Lands.

10. The Minister of the Interior may direct the reservation of lands being either odd numbered or even numbered sections or portions thereof, and may order the sale thereof as wood lots containing not more than 20 acres and not less than 10 acres each, which shall be paid for at the price of $5.00 per acre in cash, or in scrip receivable as cash, at the time of sale.

S.C. 1891 54-55 Victoria c.24 s.14

14. Whenever lands are entered for either as a homestead or pre-emption, or sold or otherwise disposed of, and such lands contain or border upon a coulee or ravine, which has been utilized for the purpose of forming a reservoir for the storage of water, or which, in the opinion of the Minister, or of the agent or other officer by whom such entry is issued or such sale or disposal is made, is capable of being so utilized to advantage, such entry may be issued or such sale or disposal made subject to the condition that no building shall be erected within a specified distance from the border of such coulee or ravine, and to such other conditions as, under the circumstances of the case, seem desirable with a view to the prevention of the pollution of the water stored in such reservoir; and in every such case any patent issued for such land shall be expressed to be subject to the conditions so imposed.

O.C. 18 May 1891

By Order in Council of Monday, the 18th day of May, 1891, under the authority of the *Dominion Lands Act*, chapter 54 of the *Revised Statutes*, section 4 of the Regulations affecting Dominion Lands in the Province of Manitoba and the North-West Territories, established by the Order in Council on the 17th day of September, 1889, chapter 97 of the Consolidated Orders in Council of Canada, as well as any other existing regulation in that behalf, were amended by making the price of land of both Classes A and B, three dollars ($3) per acre.

O.C. 23 January 1897

By Order in Council of The 23rd of January, 1897, under the provisions of sub-clause h) of clause 90 of the *Dominion Lands Act* (chapter 54 of the *Revised Statutes*), the Minister of the Interior was authorized to vary the price of Dominion lands within the limits fixed by the law, in any case wherein he thinks it advisable in the public interest to do so.

S.C. 1898 61 Victoria c.31 s.12

12. The Minister of the Interior may withdraw from general sale and from settlement under the homestead provisions of the said Act, any lands in the North-west Territories which he believes to be so arid as to be unsuited for proper cultivation without the aid of irrigation, and he may dispose thereof to any person for such price, upon such terms, and subject to such conditions as to the colonization or settlement thereof and as to the cultivation thereof by the aid of irrigation, as the Governor in Council fixes and determines.

S.C. 1908 7-8 Edward VII c.20 s.32

Sale of Agricultural Lands

32. Agricultural lands shall only be open for purchase under regulations made by the Governor in Council; and there shall be no sale to one person, under such regulations, of an area of land in excess of one section, without a special order of the Governor in Council: Provided, however, that the Minister may sell a fractional quarter-section, with or without homestead conditions, at a rate not to be less than three dollars per acre.

O.C. 3 June 1918 (1263)

Whereas section 32 of the *Dominion Lands Act*, 1908, provides that agricultural lands shall only be open for purchase under regulations made by the Governor General in Council, and that there shall be no sale to one person, under such regulations, of an acre of land in excess of one section, without a special order of the Governor General in Council; provided, however, that the Minister may sell a fractional quarter-section with or without homestead conditions, at a rate not to be less than three dollars per acre;

And whereas at the time of the passing of the said Act there were certain regulations in existence relating to the sale, settlement, use and occupation of Dominion Lands in the province of Manitoba and the North West Territories, enacted by the Order in Council of the 17th September, 1889, (P.C. 2167) as amended by the Orders in Council of the 18th May, 1891, (P.C. 832), and the 23rd January, 1897, (P.C. No.146), the effect of the said regulations as regards sales of land being to fix the price of Dominion Lands at three dollars per acre, with a minimum price of one dollar an acre, the Minister having authority to vary the price of lands within the limit fixed by the law;

And whereas all sales of Dominion Lands since the coming into effect of the *Dominion Lands Act*, 1908, have been made under the authority of the regulations referred to, except where the sale was authorized by a special Order in Council.

And whereas some doubt having arisen as to whether the validity of these regulations was affected by the passing of the *Dominion Lands Act* in 1908, the Minister in order to remove any such doubt, recommends that the power conferred upon the Minister of the Interior to make sales of Dominion Lands by the three Orders in Council above referred to be confirmed, and that in future all sale of Dominion lands be made subject to the following regulations; nothing in which is to be deemed to limit the power of the Minister to sell any fractional quarter-section with or without homestead conditions at a rate not less than three dollars per acre:—

Therefore His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, is pleased to make and enact and doth hereby make and enact the following regulations:—

Regulations

Area of land

1. There shall be no sale to one person of an area of land in excess of one section.

Valuation of land—Minimum price

2. No sale of land shall take place until a valuation has been placed thereon by a competent officer of the Department after a personal inspection thereof,

and such valuation shall constitute the basis upon which the sale is to be made; provided, however, that no land shall be offered for sale at less than three dollars per acre.

Terms of sale

3. The terms of the sale shall be fixed by the Minister, and may be varied by him as the circumstances may require.

Settlement conditions

4. The Minister may make any sale subject to the performance of such settlement duties in any case as he may deem advisable.

Improvements on land

5. In case there are improvements on the land offered for sale the purchaser shall be required to pay the value of such improvements in addition to complying with other conditions of sale.

Upset price

6. Every parcel of land offered for sale by auction shall be sold at an upset price determined by the Minister on the basis of the valuation of such land by an officer of the Department.

Auction sales

7. In case of sales of land by auction, no sale shall take place without at least thirty days public notice being given.

Withdrawal from sale

8. At any time prior to the date of sale the Minister may cancel the reservation and make the land again available for disposition under the homestead provisions of the Act, after due public notice.

Sales at reduced price

9. Where any land offered for sale by auction is not sold at the upset price, the Minister may again offer the land for sale at a reduced price and subject to such altered conditions and terms as would insure the sale of land, or he may withdraw the land from sale and dispose of the same under the homestead conditions of the Act.

Cancellation for non-compliance

10. If the purchaser fails to comply with the terms of the sale either with regard to the payment of purchase price and interest, or in regard to the performance of the prescribed settlement duties, the same may be cancelled in the discretion of the Minister.

Refunds

11. Where a sale is cancelled by the Minister for non-compliance on the part of the purchaser with the terms thereof, or for any other reason, the Minister may, in his discretion, refund to the purchaser, in whole or in part, the amount paid by him on account of the purchase price.

Assignment of right

12. Previous to the issue of a patent, a purchaser shall not assign or transfer to any person, his interest in the land or any part thereof, except by special permission of the Minister.

Commissioner, Inspector and Dominion Lands Board

O.C. 31 October 1881 (1471)

The Committee of Council have had under consideration a memorandum, dated 29th of October, 1881, hereto annexed, from the Minister of the Interior, in which he submits certain remarks and recommendation relative to the Dominion Lands Branch of his Department, with the view of securing increased efficiency in the administration of the affairs of that Branch, and they respectfully advise that the several recommendations of the Minister of the Interior be approved and carried into effect.

Memorandum

The undersigned has the honour to submit to Council the following remarks and recommendations relative to the Dominion Lands Branch of his Department.

When the Department was organized, a little more than eight years ago, the development of the North-West could hardly be said to have begun. Beyond that which existed at the time the country was acquired, settlement had but commenced, even within the Province of Manitoba, and the land business was in its infancy. For these reasons, and also because of the tentative nature of the system and regulations adopted, it was thought expedient to carry on the Dominion Lands correspondence and many of its transactions in detail through the head office here. This was rendered practicable by the comparatively limited number of those transactions, and by the fact that the only delay to which applicants were subject in having their claims to lands disposed of, or their disputes respecting title thereto adjusted, was usually that involved in the transmission of papers to and from Ottawa and Winnipeg. The impetus of late given to settlement by the progress of construction of the Canadian Pacific Railway, and by the better and more widely spread knowledge of the agricultural and other resources of the lands in the North-West which has been disseminated, has so increased the volume of business connected with the administration of those lands, as to render it absolutely necessary in the opinion of the undersigned to make provision for the more speedy disposal of the claims and disputes alluded to by having them, as far as practicable, finally dealt with at Winnipeg.

This object, in the opinion of the undersigned, would best be effected in the manner hereinafter suggested, that is to say:—

Commissioner

1. By the appointment of an officer to be styled the Commissioner of Dominion Lands, whose duties shall be—

a) To have, under instructions from the Minister of the Interior, general charge and supervision of the land granting, timber and mining business of his Department in Manitoba and the North-West Territories.

b) To suspend, at his discretion, any Dominion Lands officer in Manitoba or the North-West Territories, except the Inspector of Agencies hereinafter referred to, and to appoint temporary substitutes, who shall continue to perform the duties of the suspended officers until the decision of the Minister of the Interior has been rendered in the premises.

c) To perform such other duties as may from time to time be imposed upon him by Order in Council.

The salary of such Commissioner of Dominion Lands to be $5,000 (Five thousand dollars) per annum.

Inspector

2. By the appointment of an officer to be styled the Inspector of Dominion Lands Agencies, whose duties shall be, under instructions from the Minister of the Interior—

a) To inspect and report upon all Land Agencies in Manitoba and the North-West Territories.

b) To inspect and report upon all matters relating to Timber Agencies, Limits and Permits, in Manitoba and the North-West Territories, and the collection of Rents, Royalties and other dues from Timber, Mining, Pasturage and other lands.

c) To report from time to time through the Commissioner of Dominion Lands to the Deputy of the Minister of the Interior, upon all subjects within the scope of his duties.

d) To report, without instructions, when any matter comes under his observation which is, in his judgment, of sufficient importance.

e) To perform such other duties as may from time to time be imposed upon him by Order in Council.

The salary of such Inspector of Dominion Lands Agencies to be Three thousand two hundred dollars ($3,200) per annum, and his headquarters to be at Winnipeg, or wherever otherwise ordered by the Minister of the Interior.

Land Board

3. By the establishment of a Dominion Lands Board, to investigate and settle all disputed questions arising out of the duties imposed upon the Commissioner of Dominion Lands and the Inspector of Dominion Lands Agencies and all matters connected with the administration of the Dominion Lands system in Manitoba and the North-West Territories.

a) The Board, for the present, to consist of the said Commissioner and Inspector, who shall have equal authority as such members.

b) The decision of the Board, as a general rule, to be held as final, subject of course to the jurisdiction of the legal tribunals.

c) In cases of difference of opinion between the members of the Board, the subject to be referred to the Minster of the Interior for decision.

d) The Board to report from time to time any suggestions for the improvement of the system of administration, or any other matter within the purview of their duties which in the public interest they may deem expedient.

e) The duties of the Commissioner and the Inspector, as members of the Board to be held, to be a portion of their ordinary duties.

f) All documents, decisions and reports of the Board to be signed by both the members, and all correspondence connected therewith to be conducted either by them or by some person on behalf of both. The decisions of the Board to be carried into effect by the proper Departmental officers on being communicated to them by the Board.

g) Neither the Commissioner nor the Inspector shall, directly or indirectly, while in office, purchase lands, public or private, except on application to and with the consent of the Minister of the Interior.

Soldier Settlement

Jurisdiction of the Board

S.C. 1917 7-8 George V c.21 ss.4 & 5

4-1. The Minister, at the request of the Board, may reserve Dominion lands for the purposes of this Act.

4-2. Any such reservation shall lapse three years after the close of the present war.

4-3. The Minister may grant to any settler recommended by the Board a free entry for not more than one hundred and sixty acres of such reserved lands, subject to such conditions as, in the opinion of the Governor in Council, are necessary to secure the use of the land for the purpose for which it is granted.

5-1. The Board may loan to a settler an amount not exceeding two thousand five hundred dollars for any of the following purposes:—

a) the acquiring of land for agricultural purposes;

b) the payment of incumbrances on lands used for agricultural purposes;

c) the improvement of agricultural land;

d) the erection of farm buildings;

e) the purchase of stock, machinery and equipment; and,

f) such other purpose or purposes as the Board may approve.

5-2. The money loaned shall be expended under the supervision of the Board.

O.C. 11 February 1919 (299)

Whereas the Minister of the Interior, as such, is charged with responsibility for the administration of the *Soldier Settlement Act*, through the Soldier Settlement Board;

And whereas many applications have been made, and many others will be made, to the said Board for land for soldier settlement;

And whereas Dominion owned lands available and suitable and within reasonable distance of marketing facilities will fall short of sufficient to satisfy such applications, and it is, therefore, inevitable, that Parliament should be asked to provide, as speedily as possible, authority and money for the acquirement of additional lands for soldier settlement;

And whereas conditions, the result of the granting to the enemy of the existing armistice—which produced an unexpectedly sudden and seemingly final cessation of actual warfare and rendered possible the now rapidly proceeding return and demobilization of the Canadian Forces—render the making by the Governor General in Council, in anticipation and advance of action by Parliament, of effective provision for the acquirement of such lands and of live stock, equipment and building materials sufficient for disposition to soldier settlers intending to commence farming operations during this year, a matter of present urgent necessity,—

Therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, and under the authority of section

6 of the *War Measures Act*, 1914, or any other enabling authority, is pleased to enact and order and doth hereby enact and order as follows:—

1. For so long as, pursuant to the provisions of the *War Measures Act*, 1914, this order may lawfully endure, or until the Parliament of Canada shall otherwise provide, the Soldier Settlement Board of Canada, hereinafter referred to as "The Board" have, and is hereby granted and invested with power and authority, in addition to such power and authority as it now has, to acquire by purchase, at prices which to said Board shall seem reasonable, or otherwise to acquire, from all Governments, Departments of Governments, persons and corporations, such suitable lands, situate in any part of Canada, and such live stock, equipment and building materials, as the Board, for the purposes of soldier settlement, may decide to acquire, but not exceeding in aggregate cost the amount provided under authority of this order.

2. The Board may sell to settlers, as in this order defined, any lands so acquired, or any other lands which, apart from the terms of this Order, the Board now has or may acquire, or may have or may secure power to sell or dispose of to settlers, but subject, in every case of sale of lands acquired by the Board, pursuant to the terms of this Order, to the following provisions:—

a) Where the individual parcel of land to be sold has been separately acquired, the sale price shall be the cost of the parcel to the Board.

b) Where the individual parcel of land to be sold has been acquired as portion of one or more other parcels, the sale price shall be such amount as, in the opinion of the Board, bears the same proportion of the cost of the entire parcel or parcels so acquired as the value of the parcel to be sold bears to the value of the parcel or parcels so acquired.

c) The terms of payment shall be all cash down, or, at the option of the settler, not less than ten per cent cash down and the balance to be payable in twenty-five or less equal consecutive annual instalments, with interest at five per cent per annum, on the amortization plan, with full privilege of pre-payment. Provided that the Board may, in the case of a settler who has had adequate and successful farming experience in Canada, and who is otherwise, in the opinion of the Board, possessed of qualifications or equipment specially fitting him for success as a farmer, dispense the settler from the making of the whole or any portion of the cash down payment, in which case the full, or the remaining portion of the sale price shall be paid, in manner hereinbefore provided with respect to a balance of price by instalments.

d) No sale shall be made of a larger area than three hundred and twenty acres, nor, except in the case of a settler who is within the terms of the proviso in the next preceding paragraph of this section, shall the balance of purchase price left unpaid to the Board at the time of sale exceed four thousand five hundred dollars, nor in the excepted case shall the balance or amount left unpaid exceed five thousand dollars.

3. The Board may sell to such settler the live stock and equipment so acquired, but subject in every case of sale to the following provisions:—

a) The sale price shall be such sum as, according to the calculations of the Board, is the cost to it of the live stock or equipment to be sold.

b) The terms of payment shall be all cash down, or, at the option of the settler, payment in four equal, consecutive, annual instalments commencing at a date to be fixed by the Board, not sooner than two years, and not later than three years from the date of the sale, with interest at five per cent per annum, on the amortization plan, said interest to begin to accrue two years from the date of the sale; the amount owing to the Board upon such sale shall be a charge on the settler's land and the title, ownership and right of possession of the live stock and of the increase thereof and of the equipment so sold shall, until the sale price is paid remain in the Board; the settler to have full privilege of pre-payment;

c) The balance of sale price left unpaid to the Board at the time of sale shall not exceed two thousand dollars.

4. The Board may from time to time advance to any settler to provide for or for application to permanent improvements, including buildings, on the settler's land, amounts in money or its equivalent not exceeding in the aggregate one thousand dollars, inclusive of the cost price to the Board of building or other materials supplied by the Board,

a) Such advance shall be a charge on the settler's land and shall be repayable in twenty-five equal, consecutive, annual instalments, with interest at five per cent per annum on the amortization plan.

b) The settler shall have full privilege of pre-payment.

5. All agreements, liens or charges shall be made in such form as is satisfactory to the Board.

6. If the Board determines, as respects any property, real, personal or other, acquired by it pursuant to the terms of this Order, or as respects any part of such property, that the same cannot or ought not to be sold subject, whether as to sale price or otherwise, to the provisions of this Order, the Board shall report to the Governor General in Council the circumstances, including a statement of the cost to it of such property or part thereof, and shall recommend another sale price, or other terms of sale, as the case may be, whereafter any sale of such property or of such part thereof shall be made for such sale price or upon such other terms as the Governor General in Council may direct.

7. All sales of property, real, personal or other, made pursuant to the provisions of this Order and whereon any balance of the sale price shall remain payable by instalments, shall be evidenced by agreement of sale, which shall fully set forth the terms of sale. If any instalment mentioned in any such agreement of sale is not punctually made, or if default is made in respect to any other provisions of such agreement of sale, the Board shall be at liberty, without any formal re-entry or retaking and without resort to proceedings in equity or at law, to rescind such agreement, to cancel such agreement of sale and to resell the property, real, personal or other, to another settler. The effect of such rescission and cancellation shall be to vest such property in the Board absolutely free and discharged of all rights and claims of the settler and of all persons claiming or entitled to claim through or under him for any estate in, or lien, charge or encumbrance upon or against such property. If and when such property is resold by the Board any surplus remains in its hands beyond the amount owing to it as balance of the sale price and interest at five per cent per annum and expenses of taking over and reselling the property, the Board may pay such surplus to the settler, but if, instead, a deficiency arises, that deficiency shall be paid by the settler to the Board, which shall have a right of action against him therefor. Before exercising the rights by this section given, the Board shall

give to the settler notice of its intention so to do which notice shall be deemed duly given if mailed in any post office by registered letter addressed to the settler at his last address known to the Board, thirty clear days before the Board acts hereunder.

8. Notwithstanding any law, whether statute or otherwise, in force in any Province, authorizing or requiring the registration, recording, or filing of deeds, mortgages, certificates or judgments, attachments, bills of sale, or other documents which effect title to, or evidence the existence of liens or charges upon, property, real, personal or other, or which authorize the levy upon, or sale under, attachments, execution, or other process, or the expropriation or seizure of, property, real, personal or other, unless the Board shall otherwise consent in writing, a) the lands of a settler, and b) his live stock and equipment, which was sold to him pursuant to the provisions of this Order from the Board, and the increase of any live stock which was sold to him as aforesaid, or the settler's interest in such lands, live stock and equipment, shall, for so long as the sale price or any part thereof or any interest thereon remain unpaid to the Board, be and remain exempt from and not within the operation of such provincial laws.

9. Notwithstanding any law, whether statute or otherwise, in force in any Province, unless the Board shall otherwise consent in writing—

a) No deed, mortgage or other instrument executed by or for the settler, and no judgment recovered, or attachment, execution or other process is used, against the settler shall, as against the Board bind or affect (i) the lands of the settler, or (ii) his live stock and equipment, which was sold to him by the Board pursuant to the provisions of this order from the Board, or the increase of any live stock which was sold to him as aforesaid, for so long as the sale price of said lands, live stock or equipment, or any part thereof or any interest thereon, remains unpaid to the Board.

b) The wife of any settler shall not, for so long as the sale price, or any part thereof or any interest thereon, or any charge in favour of the Board, remains unpaid upon any lands which were sold to a settler pursuant to the provisions of this Order by the Board, have in priority of any claims or charge of the Board against or upon such lands any estate of dower in such lands, nor, during the same period, shall the husband of any settler have in priority as aforesaid any estate of curtsey in such lands, nor shall the Mechanics' Lien Acts or other lien Acts or the dower or homestead laws of any Province extend or apply in priority as aforesaid to said lands.

c) No sale, gift, delivery, barter, exchange, pledge, charge, lien or other transaction by or for the settler to or with any person, corporation or body other than the Board, and purporting to affect or bind any of such lands, live stock or equipment or any or any part thereof, so sold, or the increase of any live stock so sold, shall, while the sale price of such lands, live stock and equipment, or of any part thereof, or any interest on such price thereof, remains unpaid, have as against the Board any effect whatever, it being the object, intent and purpose of this Order, that for so long as any sum shall remain unpaid upon the aggregate advances or payments made from time to time by the Board to or on behalf of a settler, and secured by or charged upon the properties, real, personal or other, upon which advances and payments have been made and so secured or charged by the Board, shall be a continuing security for such sum or sums as shall at any time remain unpaid upon any of such advances and payments, and that none of such properties, on or by which such advances and payments are secured or charged, nor any interest of the settler therein, shall be capable of being voluntarily or involuntarily alienated or charged or encumbered to the prejudice of the claims or charges of the Board, whether subsequently to the security or charge of the Board or otherwise, without the consent of the Board, but all lawful transactions by or with and all lawful proceedings against the settler, and all provincial laws affecting him or his property or his property interests, shall, as respects any property, real, personal or other, sold to him by the Board, have full effect otherwise, saving and excepting that if the produce or crop of the settler's lands sold to him by the Board is seized or taken in execution or under any other process, whether the settler shall or shall not have fully paid for said lands, and whether said produce or crop is seized or taken standing, or out, or in barn, or otherwise, such produce or crop shall stand charged with a claim in favour of the Board for payment of all instalments due or overdue at the time of seizure or taking, by the settler to the Board in respect of the settler's land, live stock, equipment and permanent improvements, and as well all such instalments as will mature within twelve calender months thereafter.

10. The word "settler" where used in this order shall mean "settler" as defined in the *Soldier Settlement Act*, 1917, and the expression "his land" and similar expressions throughout this order, having reference to the settler shall be deemed to refer to property, real, personal or other, according to the context, which was sold to the settler by the Board, pursuant to the provisions of this Order, whether such property is or is not fully paid for.

11. For enabling such acquirement of lands, live stock, equipment and building materials, the amount appropriated by Parliament for the purposes of the *Soldier Settlement Act*, 1917, may be used, and in the event of such appropriation being insufficient, the Minister of Finance shall, out of the War Appropriation, 1918-19, provide to the credit of the Soldier Settlement Board of Canada, the sum of two million dollars.

S.C. 1919 9-10 George V c.71 ss.6-11, 14-16, 18, 19 & 28

6-1. The Minister may, at the request of the Board, for the execution of any of the purposes of this Act, reserve, or, with the approval of the Governor in Council, transfer, to the Board, any Dominion lands which are under the Minister's administration.

6-2. Any reservation of lands made pursuant to this section shall lapse and become determined whenever the Minister shall, before transfer made to the Board, so direct.

7. The Board may, for the execution of any of the purposes of this Act—

a) purchase by agreement, at prices which to it shall seem reasonable; or

b) in any other manner acquire by consent or agreement, from all persons, firms and corporations, such agricultural land, situate in any part of Canada, and such live stock, farm equipment and building materials as it may deem necessary.

8. The Board may, for the execution of any of the purposes of this Act, acquire by way of compulsory purchase, in the manner provided by Part III of this Act, from all persons, firms, and corporations, such agricultural land as it may deem necessary.

9-1. The Board may, with the approval of the Governor in Council, arrange with the Government of any province,—

a) for the acquiring or utilizing for any of the purposes of this Act of any Crown or other agricultural lands of such province; and

b) the terms and conditions upon which the Board will acquire, hold and dispose of or will utilize such lands, or upon which it will assist settlers to whom such province itself shall grant or convey any of such lands, such terms and conditions to be, as nearly as possible, the same as those which are by or under this Act provided with respect to settlers to whom the Board shall sell lands acquired by it.

10. The Board may acquire from His Majesty by purchase, upon terms not inconsistent with those of the release or surrender, any Indian lands which, under the *Indian Act*, have been validly released or surrendered.

11-1. Notwithstanding anything in the *Dominion Lands Act* having reference to school lands, the Governor in Council may, for such price as two arbitrators, one thereof appointed by the Minister and the other by the Government of the Province concerned, shall in writing certify to the Minister as fair and reasonable, grant or convey to the Board any school lands held pursuant to the provisions of that Act.

11-2. The amount payable by the Board for the acquirement of such lands shall be applied as if received as the proceeds of a sale of the same lands made pursuant to the provisions of the *Dominion Lands Act*.

14. The Board may, with the approval of the Governor in Council, make provision for,—

a) the placing of settlers with farmers for instruction in farming;

b) the establishment of agricultural training stations for settlers;

c) the supply of instructors and inspectors to visit and assist settlers with information and instruction in farming;

d) the training in home economics of the wives and female dependents of settlers; and,

e) the payment of subsistence allowances to settlers, for themselves and their dependents, while such settlers are in receipt of such instruction or training.

Soldier Grants

15-1. The Minister may issue, free, to any settler a soldier grant for not more than one quarter section (of one hundred and sixty acres, more or less) of lands reserved pursuant to section six of this Act.

15-2. Unless the Board shall, for special reasons, otherwise recommend, no such free grant shall be made to any settler who,—

a) has, pursuant to the provisions of this Act, purchased from the Board any land; or,

b) has, pursuant to the provisions of this or of the former Act, secured from the Board any advance of money for the clearing of encumbrances on, or the purchase of, or the improvement of, any land; or,

c) is owner of or has a vested, possessory interest in, agricultural land of such areas as, in the opinion of the Board, constitutes an average farm for the district within which the land is situate, or which, in the opinion of the Board, is of the value of five thousand dollars.

15-3. The Governor in Council may provide, as respects such free grants, such conditions of improvement and occupation as he deems necessary to secure the use of the land for the purposes for which it is granted.

Sales and Advances to Settlers

Sales of Land

16. The Board may sell, or dispose of, and, upon full payment made, may convey, to settlers, any lands granted, conveyed or transferred to or acquired by it, or which it may have power to sell or dispose of, but subject in every case of sale of lands acquired by purchase, whether by agreement or compulsorily, to the following provisions:—

a) Where the parcel to be sold has been separately acquired the sale price shall be the cost of the parcel to the Board;

b) Where the parcel to be sold has been acquired as portion of one or more other parcels the sale price shall be such amount as in the opinion of the Board, bears the same proportion of the cost of the entire parcel or parcels so acquired as the value of the parcel to be sold bears to the value of the parcel or parcels acquired;

c) The terms of payment shall be all cash down, or, at the option of the settler, not less than ten per centum cash down and the balance payable in twenty-five or less equal, consecutive, annual instalments, with interest at five per centum per annum, on the amortization plan, with full privilege of prepayment. Provided that the Board may, in the case of a special settler, dispense the settler from the making of the whole or any part of the cash down payment, in which case the full or the remaining portion of the sale price shall be paid, in manner hereinbefore provided with respect to a balance of such price, by instalments;

d) No sale shall be made of a larger area than three hundred and twenty acres, unless, in the opinion of the Board, owing to the character of the land, such acreage will not be adequate to enable successful farming operations, nor, except in the case of a settler who is within the terms of the proviso in the next preceding paragraph of this section, shall the balance of sale price left unpaid to the Board at the time of sale exceed four thousand five hundred dollars, nor in the excepted case shall the balance or amount left unpaid exceed five thousand dollars.

18-1. The Board may sell to settlers any live stock or equipment acquired under authority of this Act, but subject in every case of sale to the following provisions:—

a) The sale price shall be such sum as, according to the calculations of the Board, is the cost to it of the live stock or equipment to be sold;

b) The terms of payment shall be all cash down, or, at the option of the settler, payment in four equal, consecutive, annual instalments, commencing not later than three years from the date of the sale, with interest at five per centum per annum, on the amortization plan, said interest to begin to accrue two years from the date of the sale; the amount owing to the Board upon such sale shall by force of this Act constitute a first charge on any land purchased by the settler from the Board and, as well, on the settler's own land, if any, and, cumulatively, the title, ownership and right of possession of the live stock, and of the increase thereof, and of the equipment so sold, shall, until the sale price thereof is paid, remain in the Board; the settler to have full privilege of prepayment;

c) The balance of sale price left unpaid to the Board at the time of sale shall not exceed two thousand dollars.

18-2. In addition to any assistance which a settler, as defined in the former Act, holding any entry on Dominion lands, may have secured or may secure by virtue of the provisions of that Act, the Board may sell to such settler live stock and equipment on the terms of payment set out in this section, save that the balance of sale price left unpaid to the Board shall not exceed one thousand dollars, all other provisions of this Act relating to sales of live stock and equipment made to settlers being deemed to refer and apply *mutatis mutandis* to any such sale of live stock and equipment, whether such sale is or was made under authority of this subsection or by virtue of the provisions of any Order of the Governor in Council before the passing of this Act, but so that the total made by a) the advances of the Board to the settler in any connection under authority of this Act and, b) the amounts, exclusive of interest, due by him to the Board as the result of any sale made under authority of this subsection, shall not exceed three thousand dollars.

Advances For Improvements

19-1. The Board may from time to time advance to any settler to provide, or for application to, permanent improvements on the land of the settler or on the land sold to him by the Board, amounts in money or its equivalent not exceeding in the aggregate one thousand dollars, inclusive of the cost price to the Board of building or other materials supplied by it.

19-2. Such advances shall by force of this Act constitute a first charge on the land of the settler or on the land sold to him by the Board and shall be repayable in twenty-five or less equal, consecutive, annual instalments, with interest at five per centum per annum, on the amortization plan, with full privilege of repayment.

19-3. Every such advance shall be expended under the supervision of the Board.

28. Notwithstanding anything in this Act, the Board shall not, unless the Minister upon the recommendation of the Board shall approve, sell any lands to any settler who,—

a) has obtained a soldier grant under this or the former Act; or

b) has secured from the Board, under this or the former Act, any advance of money for the clearing of encumbrances on land owned by the settler; or

c) is owner of, or has a vested, possessory interest in, agricultural land of such area as, in the opinion of the Board, constitutes an average farm for the district within which the land is situate, or which, in the opinion of the Board, is of the value of five thousand dollars.

Land Reservations

O.C. 3 April 1918 (807)

Whereas the Minister of the Interior reports that the Soldier Settlement Board, appointed under the *Soldier Settlement Act*, 1917 (Chap. 21,7-8 George V) has submitted certain representations in reference to reserving lands for the purposes of the said Act;

Therefore His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior in pursuance of such representations and under and in virtue of the provisions of the *War Measures Act*, 1914, and the *Soldier Settlement Act*, 1917, is pleased to Order and it is hereby Ordered as follows:—

1. That all vacant and available land within certain tracts in the Province of Alberta, as shown outlined in red upon maps, (Southern Alberta, marked "A" and Northern Alberta, marked "B"), copies of which are attached herewith, be reserved for the purposes of the *Soldier Settlement Act*, in accordance with the provisions of section 4 thereof, such reservation to be effective from and after a date to be fixed by the Minister of the Interior by notice to the Agents of Dominion Lands for the land districts affected.

Provided that within the tracts so reserved a "settler," as defined by the *Soldier Settlement Act*, may exercise his or her ordinary homestead right at any time, as if this reservation had not been made.

Provided further that this reservation shall not be held to take away or impair existing rights on the part of any other person or persons by virtue of applications made or notices given under the provisions of the *Dominion Lands Act* and the amendments thereto, up to the date at which this reservation becomes effective, and where the acquirement of such rights is thereafter established by satisfactory evidence, the land affected thereby, if already reserved, may be withdrawn from the reservation.

2. That throughout Manitoba, Saskatchewan and Alberta south of the blue line shown on the accompanying maps marked "A" "B" "C" and "D" as being the northern limit of lands suitable for soldier settlement a special inspection shall be made of lands held under entry where the duties may be in default and which are not already the subject of cancellation proceedings, such inspection to be done by the homestead inspection staff of the Department of the Interior, the expense thereof to be defrayed by the Soldier Settlement Board. The report of the Inspector shall show the duties performed in each case and the character of each quarter-section as to whether it is suitable for soldier settlement, and shall give full information as to any special circumstances affecting the entrant.

3. That if the report of the Homestead Inspector shows that the duties are not being performed in connection with an entry above referred to, the usual sixty day notice provided for by the Dominion Lands regulations be issued to the holder of the entry requiring him to show cause why his entry shall not be cancelled, and in the event of cancellation ensuing, either as the result of such proceedings, or by reason of abandonment, the land shall be reserved for the purposes of the *Soldier Settlement Act*, if shown to be suitable for that purpose. Provided that any rights which may have been established under the *Dominion Lands Act* or Regulations thereunder, prior to the receipt by the Local Agent of Dominion Lands of instructions to reserve, shall not be interfered with.

4. That with respect to Dominion Lands anywhere in Manitoba, Saskatchewan, Alberta, or the Railway Belt, or Peace River Block of British Columbia outside of the tracts specially set apart by Paragraph 1 of this Order:

a) In any case where a person entitled to the benefits of the Soldier Settlement Act applies for a vacant and available quarter-section or other parcel available for single homestead, the Minister may, at the request of the Soldier Settlement Board, declare the parcel so applied for to be reserved land within the meaning of Sub-section 3 of Section 4 of the *Soldier Settlement Act*

b) Where the Soldier Settlement Board makes request under the *Soldier Settlement Act* for the reservation of parcels of Dominion Lands, such request shall be dealt with as the circumstances may warrant and the Minister may in his discretion declare that lands so applied for are reserved within the meaning of the sub-section already referred to. Provided that within all such additional reservations made under the authority of this order, a "settler" as defined by the *Soldier Settlement Act* may exercise his or her ordinary homestead right.

5. Any reservation made as herein provided may be cancelled in whole or in part upon advice being received from the Soldier Settlement Board that the land affected is no longer required for Soldier Settlement.

O.C. 21 January 1921 (78)

Whereas by Order in Council dated 3rd April, 1918, (P.C. 807), certain tracts of Dominion Lands were reserved for the purposes of the *Soldier Settlement Act*, and certain other reservations have subsequently been made for the same purpose, within which civilians are not permitted to make homestead entry;

His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, is now pleased to order that on and after 1st May, 1921, all existing general reservations of the nature above described shall be and the same are hereby discontinued, excepting as to lands withdrawn for soldier settlement from the Porcupine and Riding Mountain Forest Reserves, or lands, if any, which may hereafter be reserved by the Minister under Section 6 of the *Soldier Settlement Act*, 1919; so that while soldier grant entry may still be obtained by settlers who have been certified as eligible therefor, upon any vacant and available Dominion Lands, civilians may not be excluded from acquiring such lands under homestead entry or otherwise, subject to the provisions of the law and regulations in that behalf; provided that this shall not in any way affect lands which have been specially reserved for the purpose of dealing with individual cases of soldiers which are still pending; and provided further that this shall not in any way affect lands which have been specially reserved or which have been transferred to The Soldier Settlement Board under the provisions of the Order in Council of 30th October, 1918, (P.C. 2659) and the Order in Council of the 12th March, 1920, (P.C. 543).

Soldier Entry and Settlement Requirements

O.C. 14 May 1918 (1158)

3. Entry on Dominion Lands under the provisions of these regulations may be granted to any person recommended by the Board who is a "settler" as defined by the Act.

4. The following persons are "settlers" within the meaning of the Act:—

a) Any person who has served in the naval or military expeditionary forces of Canada during the present war and who has left the forces with an honourable record or who has been honourably discharged;

b) Any person who has been engaged in active service during the present war in the naval or military forces of the United Kingdom or of any of the self governing British Dominions or Colonies and who has left the forces with an honourable record or who has been honourably discharged;

c) Any person who, being a British subject resident in Canada before the war, has been engaged in active service at one of the seats of war in either the naval or military forces of any of His Majesty's allies in the present war and who has left the forces with an honourable record or who has been honourably discharged;

d) The widow of any such person described in items a) b) or c) above who died on active service.

28. When application is made in the manner hereinbefore described for land open to entry under the provisions of these regulations, the agent or officer acting for him shall accept it and issue to the applicant a Certificate of Entry, and the acceptance by the agent, or officer acting for him, of the said application and the issue of the Certificate of Entry shall constitute a soldier entry under the provisions of these regulations.

29. The Certificate of Entry shall entitle the recipient to take, occupy, use and cultivate the land entered for, and to hold possession thereof to the exclusion of any other person, and to bring and maintain actions for trespass committed on the said land; and the land shall not be liable to be taken in execution before the issue of letters patent therefor; provided that occupancy, use and possession of land so entered for shall be subject to the provisions of the Act, or regulations thereunder or amendments thereto.

45. Every holder of a soldier entry shall, except as hereinafter otherwise provided, be required before the issue of letters patent,—

a) to have held the land for his own exclusive use and benefit for three years;

b) to have resided thereon or in the vicinity thereof as hereinafter provided for at least six months in each of three years from the date of entry, or the date of commencement of residence;

c) to have cultivated in each year such area of the land entered for as is satisfactory to the Board;

d) to have erected a habitable house;

e) to have paid in full the loan, if any, and interest thereon made to him on the land entered for under the provisions of the Soldier Settlement Loan regulations, and other charges if any;

f) to be a British subject, except as otherwise provided.

Residence

46. Every entrant shall be required to perfect his entry within six months from the date thereof by taking possession of his own person of the land, and by beginning residence thereon, and if the entry is not so perfected within that period, it shall be liable to cancellation;

Provided that on cause shown the Board may extend the time for perfecting an entry for an additional six months.

47. "Residence" for the purpose of these regulations shall be by the settler in person upon the land entered for or in the vicinity thereof as hereinafter provided. Such residence shall be in the dwelling house which is the actual home of the settler during such period of residence. Residence by a member

of the settler's family or by any other person as proxy on his behalf will not be accepted.

48. The entrant may perform the required residence duties by living on a farm of an area of at least eighty acres, situated within a distance of nine miles from the land entered for, in a direct line, exclusive of the width of road allowance crossed in the measurement of the following cause:—

a) if he is the sole owner of such farm;

b) if such farm is held by him under homestead entry or otherwise under the provisions of the *Dominion Lands Act*;

c) if such farm is owned solely and occupied by the father, mother, wife, husband, son, daughters, brother or sister of the entrant, or if it is held and occupied by such relative under provisions of the *Dominion Lands Act* or of these regulations.

49. Any period of residence claimed by a settler towards obtaining patent for any land held by him under the *Dominion Lands Act*, cannot at the same time be counted as residence in connection with his soldier grant.

Cultivation Duties

50. Where the settler is residing on the land entered for under these regulations, he shall be required to bring a total of at least thirty acres of the land under cultivation, twenty of which must be cropped.

51. If residence is performed elsewhere as provided the entrant is required to bring at least fifty acres under cultivation, thirty of which must be cropped.

A reasonable portion of cultivation is required to be done in each year.

52. Where owing to the character of the land the requirements with respect to cultivation as stated would appear to be excessive, the Board may reduce the area required to be cultivated, after the land has been inspected by an officer of the Board.

Stock

53. Where the land entered for is not suitable for cultivation but is adapted for stock raising, the Board may, on application from the entrant and after inspection of the land, allow the entrant to substitute stock in lieu of cultivation duties.

The entrant who has been granted the privilege of substituting stock in lieu of cultivation shall keep on the land in each of three years, either for summer grazing or for winter feeding, the following stock which would be solely owned by him:

a) in the first year, five head;

b) in the second year, ten head;

c) in the third year, and in each subsequent years until he obtains patent, sixteen head.

The entrant keeping stock will have the entire land entered for enclosed with a substantial fence to the satisfaction of the Board.

54. Suitable buildings for the accommodation of the number of stock kept by the settler in any year shall be erected on the soldier grant, but if his residence duties are being performed under the vicinity provisions, such buildings may be upon land on which he is residing.

O.C. 19 July 1918 (1805)

45. Every holder of a soldier entry shall, except as hereinafter otherwise provided, be required before the issue of letters patent.

a) to have held the land for his own exclusive use and benefit for three years;

b) to have resided thereon or in the vicinity thereof as hereinafter provided for at least six months in each of three years from the date of entry, or the date of commencement of residence;

c) To have cultivated in each year such area of the land entered for as is satisfactory to the Board;

d) To have erected a habitable house;

e) To have paid in full the loan, if any, and interest thereon made to him on the land entered for under the provisions of the Soldier Settlement Loan Regulations, and other charges, if any;

f) To be a British subject, except as otherwise provided.

Perfecting entry

46. Every entrant shall be required to perfect his entry within six months from the date thereof by taking possession in his own person of the land, and by beginning residence thereon, and if the entry is not so perfected within that period, it shall be liable to cancellation.

Provided that on cause shown the Board may extend the time for perfecting an entry for an additional six months.

Residence

47. "Residence" for the purpose of these regulations shall be by the settler in person upon the land entered for or in the vicinity thereof, as hereinafter provided. Such residence shall be in a dwelling house which is the actual home of the settler during such period of residence. Residence by a member of the settler's family or by any other person as proxy on his behalf will not be accepted.

Vicinity

48. The entrant may perform the required residence duties by living on a farm situated within a distance of nine miles from the land entered for, in a direct line, exclusive of the width of road allowance crossed in the measurement, in the following cases:

a) If he is the sole owner of such farm;

b) If such farm is held by him under homestead entry or otherwise under the provisions of the British Columbia *Dominion Lands Act* Regulations;

c) If such farm is owned solely and occupied by the father, mother, wife, husband, son, daughter, brother, sister of the entry or if it is held and occupied by such relative under the provisions of the British Columbia Dominion Lands Regulations.

Concurrent residence not counted

49. Provided any period of residence claimed by a settler towards obtaining patent for any land held by him under the British Columbia Dominion Lands Regulations, cannot at the same time be counted as residence in connection with his soldier grant.

Cultivation Duties

If residence on grant

50. Dry Belt: In the dry belt to the Kamloops division unless the land is difficult to clear and cultivate on account of timber, a settler who resides on his homestead is required to break a total of at least 30 acres of the homestead (of which 20 must be cropped) before applying for patent. A reasonable proportion of the cultivation duties must be done during each year.

If residence in vicinity

Where residence is performed in the vicinity in accordance with the regulations the total required to be broken is at least 50 acres (of which 30 must be cropped).

If residence on grant

51. Timbered Districts: In the Revelstoke district and the timbered portions of the Kamloops district, a settler is required to clear and cultivate eight acres and rough clear and cultivate eight acres. For homesteads of eighty acres or less, four acres thoroughly cleared and cultivated and four acres rough cleared and cultivated are required. In the coast districts four acres thoroughly cleared and cultivated and four acres rough cleared and cultivated are required.

Clearing means the thorough removal of slash and stumps. Rough clearing means slashing, piling and burning, and seeding to grass or otherwise cultivating between the stumps.

If residence in vicinity

Where residence is performed in the vicinity in accordance with the regulations the cultivation duties are increased by one-half, namely, instead of eight acres thorough clearing and eight acres rough clearing, twelve acres thoroughly cleared and cultivated and twelve acres rough cleared and cultivated are required; and for homesteads of eighty acres or less, six acres thoroughly cleared and cultivated are required.

Thorough clearing accepted as rough clearing

52. Additional thorough clearing to the extent of one-half of the amount of rough clearing required is accepted in lieu of rough clearing

Cultivation to be done in three years

53. Cultivation must be done in each of three years during two of which the breaking must in crop.

Rough and wooded lands

54. Within the Forty-mile Railway Belt of British Columbia where owing to the character of the land the requirement with respect to cultivation as stated would appear to be excessive, the Minister may reduce the area required to be cultivated, after the land has been inspected by an officer of the Department of the Interior.

Mines and Minerals

S.C. 1919 9-10 George V. c.71 s.57

57. From all sales and grants of land made by the Board all mines and minerals shall be and shall be deemed to have been reserved, whether or not

the instrument of sale or grant so specifies, and as respects any contract or agreement made by it with respect to land it shall not be deemed to have thereby impliedly covenanted or agreed to grant, sell or convey any mines or minerals whatever.

O.C. 23 May 1921 (1675)

Whereas by section 57 of the *Soldier Settlement Act*, 1919, it is provided that from all sales and grants of land made by the Soldier Settlement Board all mines and minerals shall be and shall be deemed to have been reserved whether or not in fact the instrument of sale or grant so specifies that the same have been reserved, and that any such instrument which omits to make such reservation shall not be deemed to have impliedly conveyed such mines and minerals;

And whereas a number of cases have arisen where settlers have conveyed title to the Board including the mines and minerals in connection with advances made to them under the *Soldier Settlement Act*, and on discharge of their indebtedness reconveyance has been made to such settlers without reservation of the mines and minerals;

And whereas having regard to the provision of Section 57 of the Act, some doubt has arisen as to whether in view of the omission specifically to state in the conveyance that the mines and minerals are reconveyed to the settler, the intention of the Soldier Settlement Board to reconvey the title of the settler in the same condition as was originally acquired from him has been fully and effectively carried out, and, in order to eliminate any doubt which may exist, it is deemed desirable to provide the procedure for dealing with such cases;

Therefore His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior and under the provisions of section 63 of the *Soldier Settlement Act*, is pleased to order that the Loan Regulations of the Soldier Settlement Board approved by Order in Council of the 15th March, 1921, (P.C. 845) shall be and the same are hereby amended by adding thereto the following section:

> 65. a) Unless it is expressly provided in any grant or conveyance of land by the Board that the mines and minerals are not reserved therefrom, such mines and minerals shall be and shall be deemed to be reserved to the Board.
>
> b) If in any cases where, it being the intention of the Board to convey the mines and minerals to the grantee or the purchaser, the grant or conveyance does not expressly so state, the Board may, by a supplementary grant or conveyance, convey such mines and minerals, or it may recall the former grant or conveyance and issue a new one in lieu thereof in which it shall be expressly stated that the mines and minerals have been and are conveyed to the grantee or purchaser.

Conversion of Pre-emptions

O.C. 29 May 1925 (828)

Whereas the Minister of the Interior reports that holders of homestead and pre-emption entries who served overseas during the European War and who are eligible for the benefits of the *Soldier Settlement Act* have, in many cases, made application to have their pre-emptions converted into soldier grant entries, thereby avoiding payment of the purchase price accruing in respect of the pre-emption entry;

That where a settler of his class has paid in full or in part for his pre-emption, it is the practice under certain circumstances to grant a refund of the amount so paid;

Therefore His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, and under the provisions of Subsection k) of Section 76 of the *Dominion Lands Act*, Chapter 20 of the Statutes of 1908, is pleased to make the following Regulations and the same are hereby made and established accordingly:

Regulations

1. Where patent was issued for a pre-emption or purchased homestead on or before the 7th July, 1919, such pre-emption or purchased homestead shall not be convertible into a soldier grant;

2. Where patent for pre-emption or purchased homestead has been issued subsequent to the 7th July, 1919, or where such patent has not yet been issued, if the holder of the pre-emption or purchased homestead is permitted to convert the same into a soldier grant entry, all sums paid on account of principal or interest in connection with the said pre-emption or purchased homestead entry may, upon application, be refunded to the holder of the land, or to the Soldier Settlement Board in cases where an advance has been made under the provisions of the *Soldier Settlement Act*.

3. The foregoing regulations shall be deemed to be retroactive in their application.

O.C. 14 March 1930 (586)

Whereas by an Order in Council of the 29th day of May, 1925 (P.C. 828) certain regulations governing the conversion of patented pre-emptions or purchased homesteads, into soldier grants were established;

And whereas the said regulations provide that where patent was issued on or before the 7th day of July, 1919, such pre-emption or purchased homestead shall not be convertible into a soldier grant;

And whereas the Minister of the Interior reports that it has been represented that several *bona fide* applicants have been debarred from making such conversion on the ground that they had obtained patent for their pre-emption or purchased homestead prior to the said date;

Therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, is pleased to order and it is hereby ordered that in Sections one and two of the regulations established by the said Order in Council, the date be changed from the 7th day of July, 1919, to the 2nd day of July, 1919, on which latter date, the regulations under which a soldier grant might be obtained, came into force.

THE RAILWAY BELT AND PEACE RIVER BLOCK OF BRITISH COLUMBIA

Jurisdiction of the Dominion

O.C. 16 May 1871 (Imperial): The Terms of Union

11. The Government of the Dominion undertake to secure the commencement simultaneously, within two years from the date of the Union, of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains, towards the Pacific, to connect the seaboard of British Columbia with the railway

system of Canada; and further, to secure the completion of such railway within ten years from the date of the Union.

And the Government of British Columbia agree to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway throughout its entire length in British Columbia (not to exceed however, twenty (20) miles on each side of said line,) as may be appropriated for the same purpose by the Dominion Government from the public lands of the North-West Territories and the Province of Manitoba: Provided that the quantity of land which may be held under pre-emption right or by Crown grant within the limits of the tract of land in British Columbia to be so conveyed to the Dominion Government shall be made good to the Dominion from contiguous public lands; and provided further, that until the commencement, within two years, as aforesaid, from the date of the Union, of the construction of the said railway, the Government of British Columbia shall not sell or alienate any further portions of the public lands of British Columbia in any other way than under right of pre-emption requiring actual residence of the pre-emptor on the land claimed by him. In consideration of the land to be so conveyed in aid of the construction of the said railway, the Dominion Government agree to pay to British Columbia from the date of the Union, the sum of 100,000 dollars per annum, in half-yearly payments in advance.

12. The Dominion Government shall guarantee the interest for ten years from the date of the completion of the works, at the rate of five per centum per annum, on such sum, not exceeding £100,000 sterling, as may be required for the construction of a first class graving dock at Esquimalt.

13. The charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit, shall be assumed by the Dominion Government, and a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the Union.

To carry out such policy, tracts of land of such extent as it has hitherto been the practice of the British Columbia Government to appropriate for that purpose, shall from time to time be conveyed by the Local Government to the Dominion Government in trust for the use and benefit of the Indians on application of the Dominion Government; and in case of disagreement between the two Governments respecting the quantity of such tracts of land to be so granted, the matter shall be referred for the decision of the Secretary of State for the Colonies.

S.C. 1875 38 Victoria c.51

An Act to extend to the Province of British Columbia the "Dominion Lands Acts"

1. The Act passed in the Session held in the thirty-fifth year of Her Majesty's reign, and the Act passed in the Session held in the thirty-seventh year of Her Majesty's reign, and known as the *Dominion Lands Acts,* and the several provisions thereof, are hereby extended and shall apply to all lands to which the Government of Canada are now or shall at any time hereafter become entitled, or which are or shall be subject to the disposal of Parliament, in the Province of British Columbia, whether the title thereof be

legally vested in Her Majesty the Queen for the Dominion of Canada, or howsoever otherwise.

S.C. 1880 43 Vict. c.27

An Act to repeal the Act extending the "Dominion Lands Acts" to British Columbia, and to make other provision with respect to certain Public Lands in that Province

[Assented to 7th May, 1880]

Whereas it has been ascertained that the conformation of the country upon and in the vicinity of the located line of the Canadian Pacific Railway, through the Province of British Columbia, is such that it is inexpedient to attempt to apply the provisions of the *Dominion Lands Acts* to the survey, administration and management of the Lands hereinafter mentioned: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The Act passed in the thirty-eighth year of Her Majesty's reign, chaptered fifty-one, and intituled *An Act to extend to the Province of British Columbia "The Dominion Lands Acts,"* is hereby repealed.

2. The Governor in Council shall have full power and authority by Orders to be made from time to time, to regulate the manner, terms and conditions in and on which any lands which have been or may be hereafter transferred to the Dominion of Canada under the terms and conditions of the admission of British Columbia into the Dominion, shall be surveyed and laid out, administered, dealt with and disposed of, and from time to time to alter or repeal any such Order and the regulations therein made, and make others in their stead: Provided that no regulations respecting the sale, leasing or other disposition of such lands shall come into force until they shall have been published in the *Canada Gazette* and shall have been laid before both Houses of Parliament for one month, without being disapproved of by either House.

S.C. 1884 47 Victoria c. 6

An Act Respecting the Vancouver Island Railway, the Esquimalt Graving Dock, and Certain Railway Lands of the Province of British Columbia Granted to the Dominion

[Terms of the agreement between B.C. and the Dominion]

h) The Government of Canada shall, with all convenient speed, offer for sale the lands within the railway belt upon the mainland, on liberal terms to actual settlers; and—

i) Shall give persons who have squatted on any of the said lands, within the railway belt on the mainland, prior to the passing of this Act, and who have made substantial improvements thereon, a prior right of purchasing the lands so improved at the rates charged to settlers generally:

The Canadian Pacific Railway Belt

11-1. The lands granted to Her Majesty, represented by the Government of Canada, in pursuance of the eleventh section of the Terms of the Union, by the Act of the Legislature of the Province of British Columbia, number eleven of one thousand eight hundred and eighty, intituled *An Act to authorize the grant of certain public lands on the mainland of British Columbia to the Government of the Dominion of Canada for Canadian*

Pacific Railway purposes, as amended by the Act of the said Legislature, assented to on the nineteenth day of December, one thousand eight hundred and eighty-three, as aforesaid, intituled *An Act relating to the Island Railway, the Graving Dock and Railway Lands of the Province*, shall be placed upon the market at the earliest date possible, and shall be offered for sale on liberal terms to actual settlers:

11-2. The said lands shall be open for entry to *bona fide* settlers in such lots and at such prices as the Governor in Council may determine:

11-3. Every person who has squatted on any of the said lands prior to the nineteenth day of December, one thousand eight hundred and eighty-three, aforesaid, and who has made substantial improvements thereon, shall have a prior right of purchasing the lands so improved, at the rates charged to settlers generally:

11-4. The Governor in Council may, from time to time, regulate the manner in which and terms and conditions on which the said lands shall be surveyed, laid out, administered, dealt with and disposed of: Provided that regulations respecting the sale, leasing or other disposition of such lands shall not come into force until they are published in the *Canada Gazette:*

11-5. The Act forty-third Victoria, chapter twenty-seven intituled, *An Act to repeal the Act extending the "Dominion Lands Acts" to British Columbia, and to make other provision with respect to certain lands in that Province*, is hereby repealed.

Lands in the Peace River District of British Columbia

12. The three and one-half million acres of lands in that portion of the Peace River District of British Columbia, lying east of the Rocky Mountains, and adjoining the North-West Territories of Canada, granted to Her Majesty, as represented by the Government of Canada, by the said Act assented to on the nineteenth day of December, one thousand eight hundred and eighty-three, as aforesaid, intituled *An Act relating to the Island Railway, the Graving Dock, and Railway Lands of the Province*, and to be located by the said Government in one rectangular block, shall be held to be Dominion lands within the meaning of the *Dominion Lands Act*, 1883.

S.C. 1886 49 Victoria c.28

An Act to make further provision respecting the Administration of the Public Lands of Canada in British Columbia

[Assented to 2nd June, 1886]

Whereas it is expedient to enable the Governor in Council to extend the jurisdiction of the Dominion Lands Board, appointed under the provisions of the *Dominion Lands Act*, 1883, to the public lands of Canada in the Province of British Columbia, for the administration of which provision is made by section eleven of the Act forty-seventh Victoria, chapter six: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The Governor in Council may declare that the jurisdiction of the said Dominion Lands Board shall extend to all public lands in the Province of British Columbia which are the property of Canada, and for the administration of which provision is made by the Act secondly cited in the preamble to this Act, and thereupon the said Dominion Lands Board shall, as respects the said lands, have the like powers and perform the like duties as are

conferred upon and assigned to them in relation to public lands of Canada, for the administration of which provision is made by the *Dominion Lands Act*, 1883.

R.S.C. 1886 c.56

An Act respecting certain Public Lands in British Columbia

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1-1. The lands granted to Her Majesty, represented by the Government of Canada, in pursuance of the eleventh section of the terms of Union, by the Act of the Legislature of the Province of British Columbia, number eleven, of one thousand eight hundred and eighty, intituled *An Act to authorize the grant of certain public lands on the mainland of British Columbia, to the Government of the Dominion of Canada, for Canadian Pacific Railway purposes,* as amended by the Act of the said Legislature, number fourteen, passed in the session held in the year one thousand eight hundred and eighty-three and one thousand eight hundred and eighty-four, intituled *An Act relating to the Island Railway, the Graving Dock and Railway Lands of the Province,* shall be placed upon the market at the earliest date possible, and shall be offered for sale on liberal terms to actual settlers:

1-2. The said lands shall be open for entry to *bona fide* settlers in such lots and at such prices as the Governor in Council determines:

1-3. Every person who squatted on any of the said lands prior to the nineteenth day of December, one thousand eight hundred and eighty-three, and who has made substantial improvements thereon, shall have a prior right of purchasing the lands so improved, at the rates charged to settlers generally:

1-4. The Governor in Council may, from time to time, regulate the manner in which, and the terms and conditions on which, the said lands shall be surveyed, laid out, administered, dealt with and disposed of; but regulations respecting the sale, leasing or other disposition of such lands shall not come into force until they are published in the *Canada Gazette*.

1-5. The Governor in Council may declare that the jurisdiction of the Dominion Lands Board appointed under the provisions of the *Dominion Lands Act* shall extend to all public lands in the Province of British Columbia which are the property of Canada, and for the administration of which provision is made by this Act; and thereupon the Dominion Lands Board shall, as respects such lands, have the like powers and perform the like duties as are conferred upon and assigned to them in relation to public lands of Canada, for the administration of which provision is made by the *Dominion Lands Act*. 47 Victoria, c.6, s.11, part;—49 Victoria, c.28, s.1.

2. The three and one-half million acres of land in that portion of the Peace River district of British Columbia, lying east of the Rocky Mountains, and adjoining the North-West Territories of Canada, granted to Her Majesty, as represented by the Government of Canada, by the said Act, number fourteen, passed in the session held in the years one thousand eight hundred and eighty-three and one thousand eight hundred and eighty-four, intituled *An Act relating to the Island Railway, the Graving Dock and Railway Lands of the Province,* and to be located by the said Government in one rectangular block, shall be held to be Dominion lands within the meaning of the *Dominion Lands Act*. 47 Victoria, c.6,s.12.

S.C. 1895 58-59 Victoria c.4

An Act for the settlement of certain questions between the Governments of Canada and British Columbia relating to lands in the Railway Belt, British Columbia

[Assented to 22nd July, 1895]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The Governor in Council may enter into an agreement with the Government of British Columbia for the purpose of defining and settling the boundaries of what is known as the Railway Belt in that province (that is to say, the lands along the line of the Canadian Pacific Railway granted by the Act of the Legislative Assembly of that province, forty-seventh Victoria, chapter fourteen, to the Government of Canada for the purpose of constructing and to aid in the construction of the said railway) in such manner and upon and subject to such terms, conditions and stipulations as may be agreed upon between the Governor in Council and the Government of the said province; and such agreement, when entered into, and every matter and thing therein contained, shall be as binding on the Dominion of Canada, as if the same were specified and set forth in an Act of this Parliament.

2. It shall be a term and stipulation of any such agreement that the Legislature or the Government of the said province shall make provision satisfactory to the Governor in Council for the registration, under the land registry laws of the province, of the title of Her Majesty in the right of Canada to lands in the province and of the titles of purchasers from, and of persons claiming title under, Her Majesty in such right.

3. Any agreement so entered into may include such provision as may be thought proper for the settlement of controversies and claims arising out of grants made by the Government of the province of lands in the Railway Belt after the line of the said railway had been finally located.

4. The Governor in Council is authorized to carry out the provisions of any agreement entered into in pursuance of this Act and to give all necessary directions for that purpose.

5. This Act may be cited as the *Railway Belt Lands Act*, 1895.

R.S.C. 1906 c.59

An Act respecting Dominion Lands in British Columbia

1. This Act may be cited as the *Railway Belt Act*.

2. In this Act "Railway Belt" means that tract of land in the province of British Columbia within which lie the lands granted to the Dominion Government for the purpose of constructing and to aid in the construction of the portion of the Canadian Pacific Railway on the mainland of the said province, by section one of the Act of the legislature of the said province, chapter eleven of one thousand eight hundred and eighty, as amended by the Act of the said legislature, chapter fourteen of one thousand eight hundred and eighty-three and one thousand eight hundred and eighty-four.

3. The lands in the Railway Belt granted to the Dominion Government for the purposes and in manner aforesaid shall, in so far as they have not already been disposed of, be open for entry to *bona fide* settlers in such lots and at such prices as the Governor in Council determines. R.S., c.56, s.1.

4. Every person who squatted on any of the said lands prior to the nineteenth day of December, one thousand eight hundred and eighty-three, and who has made substantial improvements thereon, shall have a prior right of purchasing the lands so improved, at the rates charged to settlers generally. R.S., c.56, s.1.

5-1. The Governor in Council may, from time to time, regulate the manner in which, and the terms and conditions on which, the said lands shall be surveyed, laid out, administered, dealt with and disposed of.

5-2. Regulations respecting the sale, leasing or other disposition of such lands shall not come into force until they are published in the *Canada Gazette*. R.S., c.56, s.1.

6. The Dominion Lands Board shall, as respects such lands, have the like powers and perform the like duties as are conferred upon and assigned to them in relation to the Dominion lands for the administration of which provision is made by the *Dominion Lands Act*. R.S., c.56, s.1.

S.C. 1907 6-7 Edward VII c.39

An Act to ratify an agreement between the Government of Canada and the Government of British Columbia respecting the Western Boundary of the Railway Belt

[Assented to 22nd March, 1907]

Whereas differences of opinion have existed between the Government of Canada and the Government of British Columbia regarding the western boundary of the tract of land known as the Railway Belt, granted by the Legislature of British Columbia to the Government of Canada for the purpose of constructing and to aid in the construction of the portion of the Canadian Pacific Railway on the mainland of British Columbia: and whereas it has been agreed between the Government of Canada and the Government of British Columbia that the western boundary of the said Railway Belt shall be defined as hereinafter set out, subject to the ratification of the said agreement by the Parliament of Canada and by the Legislature of British Columbia; and whereas an Act, chapter 37 of the statutes of British Columbia of 1906, ratifying and confirming the said agreement, has been passed by the Legislature of British Columbia: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as the *Railway Belt Western Boundary Act*.

2. The agreement which has been arrived at between the Government of Canada and the Government of British Columbia, by which the western boundary of the Railway Belt mentioned in the preamble is defined as set out in section 3 of this Act, is hereby ratified and confirmed.

3. The definition of the said western boundary is as follows:— Commencing at the intersection of the International Boundary with the waters of Semiahmoo Bay, a branch of Boundary Bay, an arm of the Pacific Ocean; thence westerly and northerly, following the shore of the said Semiahmoo Bay, and of Mud Bay, another branch of the said Boundary Bay, to a point on the shore of Mud Bay, at the intersection of the west boundary line of township two, New Westminster district, with the waters of said Mud Bay; thence north along the said west boundary of township two to the northwest corner of said township two; thence northerly along the eastern side lines of the Mud Bay (or Scott) road and the Yale Road, to the south bank of the Fraser

River at Brownsville; thence northerly, crossing the Fraser River to a point on the north bank of the said river where the eastern side line of the North road produced south would intersect the north bank of the Fraser River; thence north to the eastern side line of the said North road; thence north along the said eastern side line of said North road to its intersection with the south shore of Burrard Inlet; thence north to the north shore line of Burrard Inlet; thence westerly and northerly following the shore line of Burrard Inlet to the most northerly point of the peninsula between Bedwell Bay and the North Arm of Burrard Inlet; thence northeasterly on a straight line to the point where the northern boundary of a township thirty-nine west of the coast meridian intersects the eastern shore of the North Arm of Burrard Inlet; thence northerly, following upon the said eastern shore to the mouth of the Mesliloet River, a stream flowing from the north into the head of the said North Arm; thence northerly along the middle of the main channel of the said Mesliloet River to the point of its intersection with the northern boundary of township seven in range seven, west of the seventh meridian, according to the Dominion lands system adopted in the surveys of the Railway Belt in British Columbia.

Some Unique Regulatory Features

Timber 1885 - 1889

O.C. 20 April 1885

Timber Licenses

39. The enactments and provisions of the twenty-six next following clauses shall be limited in their effect to the Dominion lands in the Railway Belt in British Columbia, lying west of the 120° of longitude west of Greenwich; and in regard to the timbered lands within the Railway Belt in British Columbia lying east of the said 120° of longitude west of Greenwich, the provisions of the *Dominion Lands Act*, 1883, and the Regulations thereunder made from time to time by the Governor in Council shall apply:

a) The word "timber" shall mean all wood and the products thereof.

40. It shall be unlawful for any person, without a license in that behalf, to be granted as hereinafter mentioned, to cut, fell or carry away any trees or timber upon or from any of the Dominion lands, unless such lands are rightfully held by homestead entry under the provisions of these Regulations.

41. Every person who shall violate the provisions of the preceding section shall, for each offence, be liable to a penalty of not less than twenty-five dollars nor more than five hundred dollars, to be recovered in a summary manner, upon the complaint of any person, before any Stipendiary Magistrate or two Justices of the Peace, and, in default of payment, by imprisonment not exceeding sixty days.

42. Any person desirous of cutting or felling and carrying away trees or timber from Dominion lands may obtain a license to that effect upon complying with the following provisions:—

a) He shall apply in writing to the Minister of the Interior for a license, and shall also, if the land intended to be covered by such license be not included in any surveyed township, stake out the land sought for, by placing at each angle or corner of the land a stake or post at least four inches square, and standing not less than four feet above the surface of the ground; and upon each post he shall inscribe his name, and the angle represented thereby thus:—"A. B's, N. E. corner" (meaning north-east corner) or as the case may be: except such posts are so planted before the notice referred to in the next succeeding section is given, all the proceedings taken by the applicant shall be void; and with his application he shall forward to the Minister of the Interior a map or sketch of the land so staked out, specifying metes and bounds, and showing thereon the best information in his power respecting the same, but if the land has already been included in any general survey, then the official number of the section or sections or part thereof applied for shall be given.

b) He shall, after making the application for the license, publish, for a period of thirty days, in the *British Columbia Gazette*, and in any newspaper circulating in the district in which the lands lie, notice of his application for a timber license, and shall in such notice give the best description of the land applied for, specifying metes and bounds, and such further particulars, if any, as may be required by the Minster of the Interior.

43. In the event of any adverse claim being filed with the Minister of the Interior, he may hear and decide upon the same.

44. Timber licenses shall be granted for such area and such length of time as may, from time to time, be determined by the Governor in Council: no person shall be entitled to more than one license at the same time: the licensee shall pay to the Minister of the Interior, for the use of Her Majesty, annually, during the currency of the license, the sum of fifty dollars therefor,—the first payment to be made upon the granting of the licence, and subsequent payments thereafter annually on a day to be named in the license, and in default of payment of any such sum within thirty days after the same should have been paid, the license shall be void.

45. No timber license shall be granted in respect of lands forming the site of any Indian settlement or reserve, and the Minister of the Interior may refuse to grant a license in respect of any particular land, if, in his opinion, it is deemed expedient in the public interest so to do.

46. The license may be in the form M, set forth in the schedule to these Regulations.

47. Every licensee shall keep an account in writing of the number of trees felled by him upon the land embraced within his license, and shall, at the expiration of every three months during the currency of his license, make and furnish to the Minister of the Interior a statement in writing, verified by declaration to be made before a Justice of the Peace, showing the number of trees so felled, and shall then forthwith pay to the Crown Timber Agent, for the use of Her Majesty, in respect of each tree felled, the sum of thirty cents, except for such trees as are hereinafter excepted.

48. The licensee shall, if required, produce to the Crown Timber Agent the original account of trees and timber cut, felled or removed upon or from the land included within his license.

49. If the licensee shall not keep an account in writing of the number of trees felled under the license, or shall not render to the Crown Timber Agent the statement in writing aforesaid, or shall wilfully make a false statement, he shall be liable to a penalty of two hundred and fifty dollars, to be recovered as aforesaid, and in default of payment, imprisonment not exceeding sixty

days; and in case of conviction the license held by him may be cancelled by the Minister of the Interior.

50. The preceding section of these Regulations shall not be construed so as to inflict penalties upon miners engaged in prospecting or mining; or upon travellers; or upon persons engaged in merely scientific pursuits or exploring; or upon farmers cutting timber for purposes connected with their farms; or upon persons cutting cordwood for fuel for their own use, or for school purposes.

51. In reckoning the number of trees felled, there shall not be included small timber used for skids, levers, rafting stuff or the like, and no dues shall be payable in respect of such small timber.

52. If any person, without authority, or otherwise than is expressly permitted by these Regulations cuts or employs, or induces any other person to cut or assist in cutting any timber on any of the Dominion lands, or removes or carries away any merchantable timber so cut from any Dominion lands, he shall not acquire any right to the timber so cut, or any claim to any remuneration for cutting, preparing the same for market, or conveying the same to or towards market; and any timber so cut may be seized by the Crown Timber Agent, or other officer or agent of the Minister of the Interior, and shall be sold for the benefit of the Crown; and all horses, oxen, mules and live stock, or any or either of them, and the machinery, plant and material found upon any of the Dominion lands whereon timber shall have been cut without lawful authority, shall be liable to forfeiture, and may be seized by the officer aforesaid, and may be sold for the benefit of the Crown.

a) If any timber shall be removed or be caused to be removed by any person from Dominion lands, such person shall, in addition to the loss of his labour and disbursements, forfeit a sum of three dollars for each tree (rafting stuff excepted) which he shall remove or cause to be removed from such land,—which sum shall be recovered with costs in the name of the Minister of the Interior, in any court having jurisdiction in civil matters, to the amount of the penalty:

b) In any proceedings under this section it shall be incumbent upon the party charged to prove his authority to cut.

53. Where timber has been cut without such authority or permission, as aforesaid, on Dominion lands, and has been made up with other timber into a crib, dram or raft, or has been in any other manner mixed up with other timber, the whole of the timber so mixed up shall be held to have been cut without authority on public lands, and shall be liable to seizure and forfeiture by the Crown Timber Agent, or other officer or agent of the Minister of the Interior on behalf of the Crown.

54. The officer making the seizure may, in the name of the Crown, call in any assistance necessary for securing and protecting the timber seized.

55. All timber, animals or things seized under these Regulations shall be deemed to be condemned, unless the person from whom they were seized, or the owner thereof, shall, within one month from the day of the seizure, give notice in writing to the nearest Crown Timber Agent that he claims, or intends to claim the same; failing such notice, the agent aforesaid shall report the circumstances to the Minister of the Interior, who may order the sale of the said timber by the said agent at such time and in such manner as he may think fit.

56. In all cases where the notice referred to in the last preceding section has been given, any Supreme Court judge may, upon petition, in a summary way, try and determine such seizures, and may order the delivery of the timber to the alleged owner, upon his giving security, by bond, with two good and sufficient sureties, to pay double the value, in case of condemnation:

a) Such bond shall be taken, in the name of the Minister of the Interior, to Her Majesty's use, and shall be delivered up to and kept by the said Minister of the Interior:

b) If any timber, animal or thing in respect of which a bond has been given is condemned, the value thereof shall be forthwith paid to the Minister of the Interior and the bond cancelled; otherwise the penalty shall be enforced and recovered.

57. Every person availing himself of any false statement or oath to evade the payment of any moneys payable under these Regulations, in respect of timber, shall forfeit the timber in respect of which payment of such moneys is attempted to be evaded.

58. The Minster of the Interior may, from time to time, define timber districts and may appoint a Crown Timber Agent for each district.

59. No logs cut under any license granted under the provisions of these Regulations shall be sawn or otherwise manufactured into lumber or other material until the logs shall have been scaled and measured by the Crown Timber Agent of the district, and the sums and timber dues prescribed by these Regulations duly paid thereon.

60. All logs shall be scaled and measured by the Crown Timber Agent or person appointed by the Minster of the Interior for that purpose in the district in which such logs have been cut.

61. On the scaling and measurement of sawlogs the person making the same shall make out a bill, stating therein the number of logs, the number of feet, board measure, contained in such logs, and the name of the owner; and the Crown Timber Agent shall enter in the books of his office a copy of such bill: another copy of the bill shall be made out and delivered to the owner or his agent, with a certificate thereto attached that it is a true and correct bill,—which bill so certified shall, for the purpose of ascertaining the amount of timber dues to be paid in respect of such logs, be presumptive evidence of the fact therein contained and of the correctness of such scaling or measurement.

62. The scale and rule by which the quantity of logs shall be determined is the rule laid down and prescribed in *Scribner's Lumber and Log Book* as copyrighted in 1882, by George W. Fisher, of Rochester, New York.

63. There shall be payable and paid by the licensee to the Minister of the Interior to and for the use of Her Majesty, the sum of seventy-five cents, for each and every one thousand feet of board measure contained in such logs, and until the same shall be paid the logs shall not be removed from the land where they were cut; and a lien for such timber dues shall attach to the logs until the dues are paid, and as soon as the logs are scaled and measured and until the payment of the dues, the Crown Timber Agent may take and hold possession of the logs.

64. In scaling or measuring logs such allowance for hollow or crooked, or otherwise defective logs, shall be made as would make them equal to good, sound, straight and merchantable logs.

65. The Minister of the Interior may cancel any timber license granted under the provisions of these Regulations if, in his opinion, the licensee shall not, within the time prescribed by his license, continuously proceed to cut and manufacture the timber within the limits of his license.

O.C. 16 July 1885 (1210)

His Excellency, by and with the advice of the Queen's Privy Council for Canada, has been pleased to order, and it is hereby ordered, that the Regulations for the survey, administration and disposal of Dominion Lands within the Railway Belt, in the Province of British Columbia, approved and adopted by the Governor in Council dated 20th April, 1885, be and the same are hereby amended as follows:—

That Clause 39 of said Regulations be rescinded, and the following substituted in lieu thereof:

> 39. That the provisions of the Act of the Legislature of British Columbia, 47 Victoria, Chapter 32 intituled *An Act relating to the cutting of timber upon the Provincial lands and for the purpose of deriving a revenue therefrom*, shall govern the mode of disposal and the rents, royalties, dues and charges upon the timber lands in the Railway Belt in British Columbia lying South of 49° 34′ North Latitude and West of the 121° of Longitude West of Greenwich; but the said Act of the Legislature of British Columbia, in so far as it applies to the lands in the Railway Belt lying South of 49° 34′ North Latitude and West of the 121° of Longitude West of Greenwich, shall be administered by the Minister of the Interior of Canada, and the rents, royalties, dues and other charges to be made and collected upon, or in respect of the said timber lands, shall be paid to the credit of the Receiver General of Canada, and the enactments and provisions in the 26 next following clauses shall be limited in their effect to the Dominion Lands in the Railway Belt in British Columbia lying North and East of the tract hereinbefore described, as far as the 120° of Longitude West of Greenwich; and in regard to the timbered lands within the Railway Belt in British Columbia lying East of the said 120° of Longitude West of Greenwich, the provisions of the *Dominion Lands Act*, 1883, and the Regulations thereunder made from time to time by the Governor in Council shall apply. a) The word "timber" shall mean all wood and the products thereof.

O.C. 16 September 1886 (1749)

On a Memorandum dated 9th September 1886, from the Minister of the Interior, representing that by Section 11 of the Regulations governing the cutting of timber on Dominion Lands within the Railway Belt in British Columbia lying South of 49° 34′ North latitude and West of 121° of longitude West of Greenwich it is provided that the Regulations shall not be construed so as to inflict penalties upon (amongst others) "proprietors of coal mines cutting timber for colliery purposes," and recommending that the operation of the said section be extended to lands in the Railway Belt as far East as the Summit of the Rocky Mountains and that it also include timber cut for purposes connected with mining for Minerals other than coal.

O.C. 2 November 1886 (1978)

His Excellency by and with the advice of the Queen's Privy Council for Canada, has been pleased to order, and it is hereby ordered, that clause 5 of the Regulations governing the cutting of timber on Dominion Lands within the Railway Belt in British Columbia, lying south of 49° 34′ North latitude and West of the 121° of longitude West of Greenwich, approved by Order in

Council of 20th April, 1885, as amended by Order in Council of 16th July, 1885, be and the same is hereby amended so as to read as follows:—

5. No timber license shall be granted for a larger area than 2,000 acres of land for each 25,000 feet, board measure, of lumber that the mill operated in connection therewith, is capable of cutting in 12 hours, nor shall the license be granted for a longer period than four years. The license shall not be transferable and may be surrendered at any time.

The licensee shall pay to the Minister of the Interior, for the use of Her Majesty, annually during the currency of the license, the sum of $10 for every 1,000 acres covered thereby, the first payment to be made upon the granting of the license and thereafter annually. In default of payment the license shall be void.

Cultivation of Orchards by Homestead

C.R.C. 1889 c.100 s.29

Fruit Culture

29. Any person eligible under these regulations to obtain a homestead entry may, for fruit-growing purposes, upon payment of a fee of ten dollars, and upon making application therefor to the local agent in the Form L in the Schedule hereto, obtain entry for any area not in excess of one quarter-section of Dominion lands of the class open for homestead entry under these regulations, upon the following terms and conditions:—

a) For each legal sub-division included in the land entered, the applicant shall, during the first year after the date of entry, clear at least four acres and plant the same in fruit trees, bushes, plants or vines, to the number prescribed in these regulations;

b) During the second year he shall clear and plant three acres additional; and any trees, plants or vines planted the preceding year which may have died shall be replaced;

c) During the third year he shall clear three acres additional, planting the same as in the first and second years, and replacing any trees, shrubs, plants or vines planted during the first and second years which may have died;

d) At the end of the third year he shall have ten acres cleared and planted with fruit trees, bushes or vines;

e) Provided that the clearing and planting herein provided for may be made upon any portion of the land entered for:

f) The fruit trees, bushes or vines to be planted by the applicant as herein provided, shall be in the proportion set forth in the following table, according to the variety or varieties planted:—

Kind	Distance apart	No. per Acre
Apple trees, standards	33 feet	40
Pear trees standards	20 feet	110
Peach trees standards	15 feet	200
Plum trees standards	15 feet	200
Cherry trees standards	20 feet	110
Currant bushes	4 x 6 feet	1,815
Gooseberry bushes	4 x 6 feet	1,815
Grapes	10 x 12 feet	364
Raspberries	3 x 6 feet	2,425
Strawberries	1 x 4 feet	10,900

g) At the expiration of five years from the date of his entry, the applicant, or in case of his death his legal representative, upon proving to the satisfaction of the local agent, or in his absence the senior clerk performing his duties, that there are then growing upon the land and in healthy condition, the number of trees, bushes, plants or vines, as the case may be, prescribed by these regulations, shall be entitled to a patent for the land upon payment therefor at the rate of one dollar per acre, provided such proof is accepted by the Commissioner of Dominion Lands, or in his absence by a member of the Land Board; but such patent shall not issue to any person who is not a subject of Her Majesty by birth or naturalization;

h) If any person having an entry for land for purposes of fruit culture fails to comply with any of the conditions in respect thereof prescribed by these regulations, his entry therefor shall be forfeited and cancelled, and he shall have no claim to the land whatever, except in special cases, in the discretion of the Minister of the Interior.

Grazing: Commons and Overseers

O.C. 15 July 1897

Regulations governing the grazing of cattle on Dominion Lands within the Railway Belt in the province of British Columbia.

Interpretation

1. In the construction of these regulations the word "cattle" shall include horses, mares, geldings, colts, bulls, bullocks, cows, heifers, steers, calves and mules.

Commons

2. The Minister of the Interior may, upon the application of two-thirds in number of residents in any tract of land not less than a township in area, cause to be proclaimed in the *Canada Gazette* a portion of the Crown lands in such tract to be a common, upon which such residents may depasture their cattle, subject to the provisions of these regulations; and the Minister of the Interior may from time to time alter, modify, cancel, or repeal any such Proclamation.

3. The extent and situation of any such common shall be defined and proclaimed by the Minister of the Interior in the *Canada Gazette* and the *British Columbia Gazette*, but in no case shall any common exceed twenty-five miles in area, nor shall lands within such common be reserved from homestead entry or sale or other disposition by the Minister of the Interior.

4. No sheep or swine shall be allowed to be pastured or kept on any such common, except while being driven from one district to another, and if the owner of any sheep or swine shall depasture or keep the same on such common, except as aforesaid, or shall in passing over such common permit the same to remain thereon for a longer period than twenty-four hours, he shall be liable to a penalty of not more than fifty dollars, to be recovered in a summary way before any justice of the peace, and in default of payment shall be imprisoned for any period not exceeding one month.

5. There shall be levied and paid upon and in respect of the cattle of every person depasturing or keeping the same upon such common, such sums as the Minister of the Interior may from time to time fix, which sums respectively shall be paid by the person assessed before the 15th day of November in each and every year, to such officer as the Minister of the Interior shall

appoint. Such sums shall not be less than ten cents or greater than twenty-five cents for each head of cattle so depastured or kept upon such common.

6. Every person pasturing or keeping cattle as aforesaid shall cause a return to be made to such officer on the first day of August in each and every year, according to the form in the schedule hereto, of all such cattle, and if any person shall fail or neglect to cause return to be made or shall make a false return of the cattle depastured or kept by him on any such common, or shall omit to deposit the same with the said officer in manner hereby required, or shall refuse or neglect to pay the assessments hereby required, he shall be liable upon conviction to a penalty of not more than twenty-five dollars, to be recovered in a summary manner before any justice of the peace, and in default of payment thereof shall be imprisoned for any period not exceeding one month.

Board of Overseers

7. Upon the petition of two-thirds of the residents, holders of land within the tract referred to in clause 2 of these regulations, it shall be lawful for the Minister of the Interior to constitute in such tract a local board to be called the Board of Overseers.

8. The board shall consist of five members who shall retire annually, and shall be elected by the votes of persons actually *bona fide* resident in such tract, but no person shall be entitled to vote who is not a male freeholder, homesteader, or lease-holder for a term of not less than six months, nor shall any person be eligible as a candidate for the board unless he shall have been duly qualified to vote for three months previous to the election.

9. Each voter shall have five votes, but shall not be allowed to give more than one vote to each candidate.

10. The votes of electors shall be given in person by the voter, and the person appointed by the Minister of the Interior shall act as returning officer, and shall decide all questions as to qualification and disqualifications of the members elect. The first election shall take place on such day as the Minister of the Interior may appoint.

11. If any person shall cease to be a freeholder, householder, homesteader, or lease- holder for a term of not less than six months, or shall be convicted of a felony or misdemeanour, or of any malicious contravention of these regulations, or of any by- law in force in the tract made in pursuance of these regulations, he shall *ipso facto* vacate his seat in each case and not be eligible for re-election, save that a member vacating his seat only by reason of ceasing to have the qualification hereinbefore required, shall be again eligible at any time upon his again becoming possessed of the necessary qualifications.

12. Whenever any member shall absent himself from five or more consecutive meetings of the board, whether regular or adjourned meetings, he shall, upon a resolution passed by the board to that effect, be considered to have vacated his seat therein.

13. The Board of Overseers shall fill, by appointment, all vacancies which may arise in the said board when the same may occur, and such appointees shall hold office until the general election.

14. The board shall, subject to the provisions of the land laws and regulations in force for the time being in the Railway Belt, have power to make by-laws regulating the depasturing of cattle, sheep and swine, on lands

uninclosed by a lawful fence in the said tract, and for the enforcing of such by-laws by fine or imprisonment.

15. The said by-laws shall be submitted for approval to the Dominion lands agent residing nearest to the tract in which the said board are elected, and any by-laws so approved by the government agent, or such other person as the Minister of the Interior may appoint, shall be immediately posted in the office of such agent, and a copy thereof shall immediately be forwarded to the Minister of the Interior.

[A sample of "Schedule Form 'A' " appears at this point in original]

Grazing: Kamloops

O.C. 13 May 1910

By Order in Council of the 13th of May, 1910, the following regulations for the administration of grazing lands in the railway belt of British Columbia were made, the same to replace regulations made by Orders in Council of 4th June, 1904, 5th July, 1904, and 4th September, 1908:—

Regulations for the Administration of Grazing Lands in the Railway Belt of British Columbia

1. In the Kamloops Division of the railway belt of British Columbia, leases for grazing purposes of lands suitable for grazing but not suitable for agriculture, may be granted by the Minister of the Interior after inspection by an officer of the department, for a period not exceeding twenty-one years.

2. A grazing lease may be granted to an applicant provided he is the actual owner of stock, for an area of land at the rate of sixty acres for each head of stock of which the applicant is the owner at the time of application, but no applicant shall be permitted to hold under lease by original application or by assignment more than a total area of 25,000 acres of Dominion lands. A statutory declaration shall be furnished as to the number of stock owned by the applicant at time of application to be placed on the leasehold.

3. An applicant shall be required before issue of lease to have posted up notice for thirty days in at least four different and conspicuous places on the lands applied for and in the post office nearest thereto, and to furnish a statutory declaration that he has done so, such notice to set forth that he has made application for a grazing lease and to describe the lands applied for.

4. In surveyed territory the land to be embraced by the lease shall be described by township and sections. In unsurveyed territory a description of the tract applied for may be given by metes and bounds sufficiently definite to admit of the location of the tract being shown in the records of the department, or if required by the Minister, either before or after the issue of the lease, the applicant shall cause a survey of the tract to be made at his own expense, by a Dominion land surveyor, under instructions from the Surveyor General, and the plan and field notes of such survey shall be deposited on record in the Department of the Interior.

5. The lessee shall pay an annual rental at the rate of two cents for every acre covered by the lease.

6. The lessee shall during each of the first three years from the date of the lease, place upon the tract leased not less than one head of stock owned by him for every sixty (60) acres of land included in the lease, and shall

thereafter during each remaining year of the term of lease maintain on the tract leased one head of stock for every twenty (20) acres of land included in the lease.

Stock means horses, cows, oxen, and bulls at least one year old.

The lessee shall on the 1st day of July in each year or as otherwise required by the Minister furnish returns of the number of stock owned by him and placed upon the leasehold.

7. Every lease shall be subject to the condition that the whole or any part of the lands leased may be disposed of under homestead entry without notice to the lessee or withdrawn without notice to the lessee in the event of any such lands being disposed of under sale or agreement to sell and the lease shall thereupon become void in respect to the land so entered for or sold.

8. Every lease shall be subject to the condition that the Minister may at any time during the term of the lease give the lessee notice of the cancellation thereof, in whole or in part, and at the expiration of two years from the date of such notice the lease shall so cease and determine.

9. Every lease shall be subject to the condition that, until roads have been located or constructed, the lessee shall not have the right to close off or fence in or otherwise interfere with the use of any existing or necessary trail or trails through the lands leased, and to the further condition that a convenient right of way not exceeding sixty-six (66) feet in width shall be and is hereby reserved for the use of settlers, land holders or others in passing to and from their locations or lands; provided always that such settler or landholder or other person shall not damage the property of the lessee, and provided that in the event of any dispute arising as to the use of such trail or right of way the decision of the Minister shall be final.

10. If any of the lands leased produce hay, the lessee is not entitled to use, sell or barter the same but the lessee may, upon applying to the agent of Dominion lands in whose district the land is situated, obtain in accordance with the regulations in that behalf the first permit free of dues, to cut so much of the hay as the lessee actually requires for the use of his own stock, provided the rental of the leasehold has been paid. The agent may then issue permits to other applicants and the permittees will be entitled to enter upon the leasehold to cut and remove the quantity of hay specified in their permits, subject, however, to such conditions as the Minister may think proper for the protection of the lessee.

11. The lessee will not be entitled to break or crop any portion of the leasehold but the Minister may grant a lessee of grazing lands permission to cultivate and crop such portions of his leasehold as may be considered necessary for the growing of fodder for his stock, provided, however, that no such permission shall be granted for the raising of crops for any other purpose than providing fodder for the stock owned by the lessee, and that the lessee shall not dispose of any fodder so raised by barter or sale without the consent of the Minister.

12. The lease shall be in such form and shall contain such provisions not inconsistent with these regulations as may be determined by the Minister.

13. If a lease is secured by misrepresentation as to the ownership of the stock or other material facts, it may be summarily cancelled.

14. Failure to place or maintain the required number of stock upon the land

leased or to fulfil any other condition of the lease shall subject the lessee to forfeiture thereof in whole or in part without notice.

15. Whether he be a lessee or not, no person shall be allowed to place sheep upon Dominion lands in the railway belt without permission in writing being first obtained from the Minister.

16. A lessee of grazing lands shall not be permitted to homestead land which is open to entry but situate within any tract leased to another for grazing purposes.

17. Orders in Council of 4th June, 1904, 5th July, 1904, and 4th September, 1908, respecting grazing land in the railway belt of British Columbia are hereby rescinded.

18. "Minister" means the Minister of the Interior.

O.C. 15 June 1916

Whereas the Regulations for the administration of grazing lands in the Kamloops Division of the Railway Belt, in the Province of British Columbia, established by Order in Council, dated 13th May, 1910, do not make provision for the granting of leases for sheep grazing purposes and it is deemed desirable in the public interest to have such provision included in the said Regulations;

Therefore His Royal Highness the Governor General in Council is pleased to order that the following amendments be made to the said Regulations, and the same are hereby amended accordingly, viz:—

Clause 2 is amended to read as follows:—

> 2. A grazing lease may be granted to an applicant provided he is the actual owner of stock, for an area of land at the rate of sixty acres for each head of cattle, or five sheep, of which the applicant is the owner at the time of application, but no applicant shall be permitted to hold under lease by original application or by assignment more than a total area of 25,000 acres of Dominion lands. A statutory declaration shall be furnished as to the number of stock owned by the applicant at time of application to be placed on the leasehold.

Clause 6 is amended to read as follows:—

> 6. The lessee shall during each of the first three years from the date of the lease, place upon the tract leased not less than one head of cattle, or five sheep, owned by him, for every sixty (60) acres of land included in the lease, and shall thereafter during each remaining year of the term of lease maintain on the tract leased one head of cattle, or five sheep, for every twenty (20) acres of land included in the lease.
>
> Cattle means horses, cows, oxen and bulls at least one year old.
>
> The lessee shall, on the 1st day of July in each year, or as otherwise required by the Minister, furnish returns of the number of stock owned by him and placed upon the leasehold.

Clause 15 is amended to read as follows:—

> 15. The lessee may graze sheep on his leasehold, provided the sheep are confined within a sheep-tight fence.

O.C. 24 February 1919 (429)

His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, is pleased to order and it is hereby ordered that the regulations for the administration of grazing lands in the Kamloops Division of the Railway Belt, in the Province of British Columbia, which was established by Order in Council of the 13th May, 1910, shall be and the same are hereby amended so as to provide that the rental on grazing leaseholds shall be 4 cents per acre per annum.

O.C. 23 September 1921 (3562)

Whereas by Order in Council of the 24th February, 1919, the grazing regulations applicable to the Kamloops division of the railway belt in the province of British Columbia, established by Order in Council of the 13th May, 1910, and subsequent Orders in Council, were amended so as to provide for the payment of rental at the rate of 4 cents per acre per annum instead of 2 cents;

His Excellency the Governor General in Council, in view of the depression now existing in the live stock industry, the low price obtainable for cattle and the high cost of fodder due to partial failure of feed supply, is pleased to authorize and doth hereby authorize the Minister of the Interior to accept, for one year commencing the 1st October, 1921, rental at the rate of 2 cents per acre per annum, from those holding leases providing for rental at 4 cents per acre per annum, provided such rental is paid within thirty days of the due date thereof.

O.C. 4 February 1922 (245)

Whereas regulations governing the granting of grazing leases in Kamloops Division of the Railway Belt, in the Province of British Columbia, were established by Order in Council of the 13th May, 1910, and subsequent Orders in Council, and provision is made therein for the issue of twenty-one year leases covering lands unfit for agricultural purposes;

And whereas the lands affected are open to homestead entry and sale at any time, and the lease may be cancelled or any portion of the leasehold withdrawn from the operation of the lease on two years' notice to the lessee;

And whereas applications are occasionally received for grazing leases of lands in the Railway Belt outside of the Kamloops Division, which are reported to be unfit for agricultural purposes;

Therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior and in order that leases may be granted in such cases, is pleased to amend the regulations above referred to so that they shall apply to the whole of the Railway Belt, and the said regulations are hereby so amended accordingly;

His Excellency the Governor General in Council, on the same recommendation, is further pleased to amend and doth hereby amend clause 15 of the aforesaid regulations which makes the provision that the lessee may graze sheep on his leasehold, provided the sheep are confined within a sheep-tight fence, so that the said clause shall read as follows:—

> 15. The lessee may graze sheep on his leasehold, provided the sheep are confined within a sheep-tight fence, or provided they are in charge of a herder and are kept within the boundaries of the leasehold.

INDIANS, MÉTIS AND ORIGINAL WHITE SETTLERS

Provisions of the Dominion Lands Act

S.C. 1872 35 Victoria c.23 ss.42 & 108

Indian Title

42. None of the provisions of this Act respecting the settlement of Agricultural lands, or the lease of Timber lands, or the purchase and sale of Minerals lands, shall be held to apply to territory the Indian title to which shall not at the time have been extinguished.

Previous Orders in Council

108. All proceedings properly taken under the respective Orders in Council on the subject of the *Public Lands in the Province of Manitoba*, dated the twenty-fifth of April, one thousand eight hundred and seventy-one, and the twenty-sixth of May following the said date, are hereby confirmed, and the said respective orders, (except such of the provisions thereof as may be inconsistent with the provisions of this Act, and which are hereby revoked), shall be and remain in force.

S.C. 1874 37 Victoria c.19 ss.12, 19 & 20

12. Section one hundred and eight of the said hereinbefore first cited Act is hereby repealed and the following is substituted for, and shall be read as the said section:—

> 108. All proceedings properly taken under the respective Orders in Council, on the subject of the *Public Lands in the Province of Manitoba*, dated the twenty-fifth of April, one thousand eight hundred and seventy-one, and the twenty-sixth of May following the said date, are hereby confirmed, and the said respective Orders, except the provision therein respecting preemption rights, which is hereby repealed and done away with, (and except such of the provisions thereof as may be inconsistent with the provisions of this Act, and which are hereby revoked), shall be and remain in force: Provided that this enactment shall in no way affect the provisions of the Act passed in thirty-sixth year of Her Majesty's reign, Chapter thirty-eight.

Land Scrip

19. Whereas by the fifth sub-section of the thirty-second section of the Act passed in the thirty-third year of Her Majesty's reign, chapter three, it is provided that the rights of common and of cutting hay held and enjoyed by the settlers in the Province of Manitoba may be commuted by grants of land from the Crown; and whereas the method of commuting the said rights by an issue of scrip redeemable only in land is most convenient and expedient; and whereas it is also expedient to affirm the principle that rights to Dominion land may be satisfied by an issue of scrip; therefore, the Orders of the Governor in Council, dated respectively the sixth day of September and the seventeenth day of April last past, providing for the issue of scrip in commutation of the rights of common and of cutting hay in Manitoba, are hereby confirmed.

20. The Governor in Council may, if deemed by him expedient, satisfy any claim which may hereafter arise to grants of Dominion Lands, by an issue of scrip redeemable only by its receipt in payment for such land.

S.C. 1879 42 Victoria c. 31 ss. 43, 123, 124 & 125 a), e) & f)

Indian Title

43. None of the provisions of this Act respecting the settlement of agricultural lands, or the lease of timber lands, or the purchase and sale of mineral lands, shall be held to apply to territory the Indian title to which shall not at the time have been extinguished.

Land Scrip

123. Whereas by the fifth sub-section of the thirty-second section of the Act passed in the thirty-third year of Her Majesty's reign, chapter three, it is provided that the rights of common and of cutting hay held and enjoyed by the settlers in the Province of Manitoba, may be commuted by grants of land from the Crown; and whereas the method of commuting the said rights by an issue of scrip redeemable only in land, is most convenient and expedient; and whereas it is also expedient to affirm the principle that rights to Dominion land may be satisfied by an issue of scrip; therefore, the Orders of the Governor in Council, dated respectively the sixth day of September, one thousand eight hundred and seventy-three and the seventeenth day of April, one thousand eight hundred and seventy-four, providing for the issue of scrip in commutation of the rights of common and of cutting hay in Manitoba, are hereby confirmed.

124. The Governor in Council may, if deemed to by him expedient, satisfy any claim which may hereafter arise to grants of Dominion lands, by an issue of scrip redeemable only by its receipt in payment for such land.

General Provisions

125. The following powers are hereby delegated to the Governor in Council:—

a) To withdraw from the operation of the said Act, subject to their existing rights as defined or created under the same, such lands as have been reserved for Indians, or such as may be required to satisfy the half-breed claims created under section thirty-one of the Act thirty-three Victoria, chapter three;

e) To satisfy any claims existing in connection with the extinguishment of the Indian title, preferred by half-breeds resident in the North-West Territories outside of the limits of Manitoba, on the fifteenth day of July, one thousand eight hundred and seventy, by granting land to such persons, to such extent and on such terms and conditions, as may be deemed expedient;

f) To investigate and adjust claims preferred to Dominion land situate outside of the Province of Manitoba, alleged to have been taken up and settled on previous to the fifteenth day of July, eighteen hundred and seventy, and to grant to persons satisfactorily establishing undisturbed occupation of any such lands, prior to, and, being by themselves or their servants, tenants or agents, or those through whom they claim, in actual peaceable possession thereof at the said date, so much land in connection with and in satisfaction of such claims, as may be considered fair and reasonable;

S.C. 1883 46 Victoria c.17 ss. 3, 79, 80 & 81 a), e) & f)

Indian Title

3. None of the provisions of this Act shall be held to apply to territory the Indian title to which shall not, at the time have been extinguished.

Land Scrip

79. Whereas by the fifth sub-clause of the thirty-second clause of the Act passed in the thirty-third year of Her Majesty's reign, chapter three, it is provided that the rights of common and of cutting hay held and enjoyed by the settlers in the Province of Manitoba, may be commuted by grants of land from the Crown; and whereas the method of commuting the said rights by an issue of scrip redeemable only in land, is most convenient and expedient; and whereas it is also expedient to affirm the principle that rights to Dominion land may be satisfied by an issue of scrip; therefore, the Orders of the Governor in Council, dated respectively the sixth day of September, one thousand eight hundred and seventy-three, and the seventeenth day of April, one thousand eight hundred and seventy-four, providing for the issue of scrip in commutation of the rights of common and of cutting hay in Manitoba, are hereby confirmed.

80. The Governor in Council may, if deemed by him expedient, satisfy any claim to grants of Dominion lands, respecting which no provision is otherwise made by law, by an issue of scrip redeemable only by its receipt in payment for such land.

General Provisions

81. The following powers are hereby delegated to the Governor in Council:—

a) To withdraw from the operation of this Act, subject to existing rights as defined or created under the same, such lands as have been or may be reserved for Indians, or such as may be required to satisfy the half-breed claims created under clause thirty-one of the Act thirty-third Victoria, chapter three;

e) To satisfy any claims existing in connection with the extinguishment of the Indian title, preferred by half-breeds resident in the North-West Territories outside of the limits of Manitoba, previous to the fifteenth day of July, one thousand eight hundred and seventy, by granting land to such persons, to such extent and on such terms and conditions as may be deemed expedient;

f) To investigate and adjust claims preferred to Dominion land situate outside of the Province of Manitoba, alleged to have been taken up and settled on previous to the fifteenth day of July, eighteen hundred and seventy, and to grant to persons satisfactorily establishing undisturbed occupation of any such lands, prior to the said date, and being by their own residence, or that of their servants, tenants or agents, or of those through whom they claim, in actual peaceable possession thereof at the said date, so much land in satisfaction of such claims, as may be considered fair and reasonable, but not exceeding in any case one quarter section unless there has been cultivation of more than that area;

R.S.C. 1886 ss. 3, 4 & 90 a), f) & g)

Application of Act

3. Except as provided by any other Act of the Parliament of Canada, this Act

applies exclusively to the public lands included in Manitoba and the several territories of Canada 46 Victoria, c.17, s.1, *part.*

4. None of the provisions of this Act shall apply to territory the Indian title to which is not extinguished.

Powers of the Governor in Council

90. The Governor in Council may—

a) Withdraw from the operation of this Act, subject to existing rights as defined or created thereunder, such lands as have been or are reserved for Indians;

f) Grant lands, in satisfaction of any claims existing in connection with the extinguishment of the Indian title, preferred by half-breeds resident in the North-West Territories, outside of the limits of Manitoba, previous to the fifteenth day of July, one thousand eight hundred and seventy, to such persons, to such extent,and on such terms and conditions as are deemed expedient;

g) Investigate and adjust claims preferred to Dominion lands situate outside of the Province of Manitoba, alleged to have been taken up and settled on previous to the fifteenth day of July, one thousand eight hundred and seventy, and grant to persons satisfactorily establishing undisturbed occupation of any such lands, prior to the said date, and being, by their own residence or that of their servants, tenants or agents, or of those through whom they claim, in actual peaceable possession thereof at the said date, so much land in satisfaction of such claims as is considered fair and reasonable, but not exceeding in any case one quarter section, unless there has been cultivation of more than that area;

S.C. 1899 62-63 Victoria c.16 s.4

4. Clause 90 of the said Act is hereby amended by striking out paragraph f) thereof, and by substituting the following paragraphs therefor:—

f) grant lands in satisfaction of claims of half-breeds arising out of the extinguishment of the Indian title;

f2) upon the extinguishment of the Indian title in any territory or tract of land, make to persons satisfactorily establishing undisturbed occupation of any lands within such territory or tract on the first day of January, one thousand eight hundred and ninety-nine, and who are at that time, by their own residence or that of their servants, tenants or agents, in actual peaceable possession thereof, free grants of such lands, provided that not more than one hundred and sixty acres shall be so granted to any one person.

R.S.C. 1906 c.55 ss.3, 4 & 6 a), f), g) & h)

Application of Act

3. Except as provided by this or any other Act of the Parliament of Canada, this Act applies exclusively to the public lands in the provinces of Manitoba, Saskatchewan and Alberta, and the Territories of Canada.

2. The three and one-half million acres of lands in that portion of the Peace River district of British Columbia, lying east of the Rocky Mountains, granted to the Crown, as represented by the Government of Canada, by the Act of the Legislature of British Columbia, number fourteen, passed in the session held in the years one thousand eight hundred and eighty-three and

one thousand eight hundred and eighty-four intituled *An Act relating to the Island Railway, the Graving Dock and Railway Lands of the Province,* and to be located by the said Government in one rectangular block, shall also be held to be Dominion lands within the meaning of this Act. R.S., c.54, s.3; c.56, s.2.

4. None of the provisions of this Act shall apply to territory the Indian title to which is not extinguished.

Powers of the Governor in Council

6. The Governor in Council may,—

a) withdraw from the operation of this Act, subject to existing rights as defined or created thereunder, such lands as have been or are reserved for Indians;

f) grant lands in satisfaction of claims of half-breeds arising out of the extinguishment of the Indian title;

g) upon the extinguishment of the Indian title in any territory or tract of land, make to persons satisfactorily establishing undisturbed occupation of any lands within such territory or tract on the first day of January, one thousand eight hundred and ninety-nine, and who were at that time, by their own residence or that of their servants, tenants or agents, in actual peaceable possession thereof, free grants of such lands, provided that not more than one hundred and sixty acres shall be so granted to any one person;

h) investigate and adjust claims preferred to Dominion lands situate outside of the province of Manitoba, alleged to have been taken up and settled on previous to the fifteenth day of July, one thousand eight hundred and seventy, and grant to persons satisfactorily establishing undisturbed occupation of any such lands, prior to the said date, and being by their own residence, or that of those through whom they claim, or that of their servants, tenants or agents, in actual peaceable possession thereof at the said date, so much land in satisfaction of such claims as is considered fair and reasonable, but not exceeding in any case one quarter section, unless there has been cultivation of more than that area;

S.C. 1908 7-8 Edward VII c. 20 s. 76(a)-(c)

Powers of the Governor in Council

76. The Governor in Council may—

a) withdraw from the operation of this Act, subject to existing rights as defined or created thereunder, such lands as have been or may be reserved for Indians;

b) grant lands in satisfaction of claims of half-breeds arising out of the extinguishment of the Indian title;

c) upon the extinguishment of the Indian title in any territory or tract of land, make to persons satisfactorily establishing undisturbed occupation of any lands within the said territory or tract at the date of such extinguishment, by their own residence or that of their servants, tenants or agents, in actual peaceable possession thereof, free grants of the said lands, provided that an area not more than equal to a quarter- section shall be so granted to any one person unless there has been cultivation of more than that area;

S.C. 1923 13-14 George V c.44 s.8

8. Paragraph b) of section seventy-six of the said Act is repealed and the following is substituted therefor:—

b) make grants not exceeding in any case the sum of two hundred and forty dollars in cash in satisfaction of claims of half-breeds arising out of the extinguishment of the Indian title.

The Manitoba Act Claims: Description

The *Manitoba Act* 1870 33 Victoria c.3 ss.31 & 32

31. And whereas, it is expedient, towards the extinguishment of the Indian Title to the lands in the Province, to appropriate a portion of such ungranted lands, to the extent of one million four hundred thousand acres thereof, for the benefit of the families of the half-breed residents, it is hereby enacted, that, under regulations to be from time to time made by the Governor General in Council, the Lieutenant-Governor shall select such lots or tracts in such parts of the Province as he may deem expedient, to the extent aforesaid, and divide the same among the children of the half-breed heads of families residing in the Province at the time of the said transfer to Canada, and the same shall be granted to the said children respectively, in such mode and on such conditions as to settlement and otherwise, as the Governor General in Council may from time to time determine.

32. For the quieting of titles, and assuring to the settlers in the Province the peaceable possession of the lands now held by them, it is enacted as follows:—

a) All grants of land in freehold made by the Hudson's Bay Company up to the eighth day of March, in the year 1869, shall, if required by the owner, be confirmed by grant from the Crown.

b) All grants of estates less then freehold in land made by the Hudson's Bay Company up to the eight day of March aforesaid, shall, if required by the owner, be converted into an estate in freehold by grant from the Crown.

c) All titles by occupancy with the sanction and under the license and authority of the Hudson's Bay Company up to the eighth day of March aforesaid, of land in that part of the Province in which the Indian Title has been extinguished, shall, if required by the owner, be converted into an estate in freehold by grant from the Crown.

d) All persons in peaceable possession of tracts of land at the time of the transfer to Canada, in those parts of the Province in which the Indian Title has not been extinguished, shall have the right of pre-emption of the same, on such terms and conditions as may be determined by the Governor in Council.

e) The Lieutenant-Governor is hereby authorized, under regulations to be made from time to time by the Governor General in Council, to make all such provisions for ascertaining and adjusting, on fair and equitable terms, the rights of Common, and rights of cutting Hay held and enjoyed by the settlers in the Province, and for the commutation of the same by grants of land from the Crown.

S.C. 1873 36 Victoria c. 37

An Act to authorize Free Grants of land to certain Original Settlers and their descendants, in the territory now forming the Province of Manitoba

[Assented to 3rd May, 1873]

Whereas by the Act passed in the thirty-third year of Her Majesty's reign, intituled *An Act to amend and continue the Act 32 and 33 Victoria, chapter 3, and to establish and provide for the government of the Province of Manitoba*, provision is made for setting apart one million four hundred thousand acres of land in the said Province for the benefit of the families of the half-breed residents therein, at the time of its transfer to Canada, the said extent of land being equal to about one hundred and forty acres for each such person; and whereas there are in the said Province, certain persons being original settlers, who came into the Red River country under the auspices of Lord Selkirk, between the years one thousand eight hundred and thirteen and one thousand eight hundred and thirty-five, or children of such original settlers, who are not half-breeds and cannot therefore claim any part in the lands set apart under the Act above cited, although they are fairly entitled to consideration: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Under regulations to be, from time to time, made by the Governor in Council, the Lieutenant Governor of Manitoba shall select from the ungranted lands of the Crown such lots or tracts in such parts of the Province as he may deem expedient, not exceeding in the whole forty-nine thousand acres, for the purpose of making free grants thereof to persons now resident in the Province, being original white settlers who came into the Red River country under the auspices of Lord Selkirk, between the years one thousand eight hundred and thirteen and one thousand eight hundred and thirty-five, both inclusive, or the children, not being half-breeds, of such original settlers; and such grants may be made in such mode and on the same conditions as to settlement or otherwise, as regulate the grants to the half-breeds under the Act above cited; but no such grant to any one person shall exceed one hundred and forty acres.

S.C. 1873 36 Victoria c.38

An Act to remove doubts as to the construction of section 31 of the Act 33 Victoria, chapter 3, and to amend section 108 of the "Dominion Lands Act"

[Assented to 3rd May, 1873]

Whereas doubts have arisen as to the children intended by the thirty-first section of the Act passed in the thirty-third year of Her Majesty's reign, chapter three, and it is expedient to remove such doubts: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The children meant and intended by the said thirty-first section of the said Act shall be held to include all those of mixed blood, partly white and partly Indian, and who are not heads of families.

2. Such proceedings only under the Orders in Council mentioned and referred to in section one hundred and eight of the Act thirty-five Victoria, chapter twenty-three, as are sanctioned by the provisions of the said section thirty-one of the Act thirty three Victoria, chapter three as explained by this

Act, shall be held and deemed to have been properly taken and to have been confirmed by the said section one hundred and eight of the said Act thirty-five Victoria, chapter twenty-three; and the said respective orders (except such of the provisions thereof as may be inconsistent with the provisions of the said section thirty-one of the said Act thirty-three Victoria, chapter three, as explained by this Act, or of the said Act thirty-five Victoria, chapter twenty-three, and which are hereby revoked) shall be and remain in force, subject to the provisions of the following section of this Act,—the said section one hundred and eight of the said Act thirty-five Victoria, chapter twenty-three, being hereby amended to that effect.

3. In amendment of so much of the said Order in Council of the twenty-fifth day of April, one thousand eight hundred and seventy-one, as provides that the Lieutenant-Governor of Manitoba shall draw and initial tickets for the allotment of lands, it is hereby enacted that such drawing and initialing may be done by any person appointed by the Lieutenant-Governor for that purpose; and the Lieutenant-Governor is hereby authorized from time to time to appoint a person to draw and initial such tickets.

S.C. 1874 37 Victoria c. 20

An Act respecting the appropriation of certain Dominion Lands in Manitoba

[Assented to 26th May, 1874]

Whereas by the thirty-first section of the Act thirty-third Victoria, chapter three, it was enacted as expedient towards the extinguishment of the Indian title to the lands in the Province of Manitoba to appropriate one million four hundred thousand acres of such lands for the benefit of the children of the half-breed heads of families residing in the Province at the time of the transfer thereof to Canada;

And whereas no provision has been made for extinguishing the Indian title to such lands as respects the said half-breed heads of families residing in the Province at the period named;

And whereas it is expedient to make such provision, and it is deemed advisable to effect the same by grants of land or by an issue of scrip redeemable in Dominion Lands;

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. To effect the purpose above mentioned, each half-bread head of a family resident in the Province on the fifteenth day of July, one thousand eight hundred and seventy, shall be entitled, in the discretion of and under regulations to be made by the Governor General in Council, to receive a grant of one hundred and sixty acres of land or to receive scrip for one hundred and sixty dollars, the latter to be receivable in payment for the purchase of Dominion Lands.

2. For the purpose of this Act the term "half-breed heads of families" shall be held to include half-breed mothers as well as half-breed fathers, or both, as the case may be:

But the land or scrip to which any half-breed mother shall be entitled under this Act shall be granted or allotted and given to such half-breed mother on such conditions as the Governor in Council may, from time to time, determine;

And in the event of the death of any half-breed father or half-breed mother, or both, between the fifteenth day of July, one thousand eight hundred and seventy, and the granting of the land or the issuing of the scrip, the land or scrip to which such half-breed head of a family is entitled shall be granted or distributed to such members of the family and on such conditions as the Governor in Council may, from time to time, determine.

3. Whereas it is expedient to afford facilities to parties claiming lands under the third and fourth sub-sections of the thirty-second section of the Act thirty-third Victoria, chapter three, to obtain letters patent for the same,—

Be it enacted, that persons satisfactorily establishing undisturbed occupancy of any lands within the Province prior to, and being by themselves or their servants, tenants or agents, or those through whom they claim, in actual and peaceable possession thereof on the eighth day of March, One thousand eight hundred and sixty-nine, shall be entitled to receive letters patent therefor, granting the same absolutely to them respectively in fee simple.

4. And whereas by the Act thirty-sixth Victoria, chapter thirty-seven it was provided that forty-nine thousand acres should be set apart from the ungranted lands of the Crown in Manitoba, to be divided as Free Grants to persons resident in the Province, being original white settlers who came into the country under the auspices of Lord Selkirk, between the years one thousand eight hundred and thirteen and one thousand eight hundred and thirty-five, both inclusive, or the children, not being half-breeds, of such original settlers:

And whereas it was thereby intended to give each of such settlers and their children one hundred and forty acres of land, and, in the absence of an exact census, the number of claimants was assumed as not to exceed three hundred and fifty, and the grant of land, forty-nine thousand acres, was estimated accordingly:

And whereas an accurate census of such person and their children shows that they number five hundred and thirty or thereabouts, and an equal division of the land so set apart, as above, would only give to each claimant ninety-two acres and four-tenths of an acre:

And whereas it is expedient to recognize the right of each of such claimants to a grant of one hundred and sixty acres:

And whereas the said persons and their children have requested that such grant may be by an issue of scrip, and it is considered expedient to concede such request:

And whereas it is also expedient to recognize the claims to free grants of land on the part of certain original white settlers in the said Province, who settled in the country at an early date, but not under the auspices of Lord Selkirk, and to provide for the same by an issue of scrip, therefore—

Each and every person now resident in the said Province, being original white settlers who came into the Red River country, whether under the auspices of Lord Selkirk or otherwise, between the years one thousand eight hundred and thirteen and one thousand eight hundred and thirty-five, both inclusive, or the children, not being half-breeds, of such original white settlers, shall be entitled under regulations to be made by the Governor General in Council to receive scrip for one hundred and sixty dollars, the same to be receivable in payment for the purchase of Dominion Lands.

5. The said Act, thirty-sixth Victoria, chapter thirty-seven, is hereby repealed.

S.C. 1875 38 Victoria c.52

An Act to amend "An Act respecting the appropriation of certain Lands in Manitoba"

[Assented to 8th April, 1875]

Whereas it is expedient to amend the third section of the Act passed in the thirty-seventh year of Her Majesty's reign, and intituled: *An Act respecting the appropriation of certain Dominion Lands in Manitoba,* and thereby to afford further facilities to parties claiming lands under the third and fourth sub-sections of the thirty-second section of the Act thirty-third Victoria, chapter three, to obtain Letters Patent for the same: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The third section of the Act passed in the thirty-seventh year of Her Majesty's reign, intituled: *An Act respecting the appropriation of certain Dominion Lands in Manitoba,* is hereby repealed, and the following shall be taken and substituted therefor, and read in lieu of the section hereby repealed:—

3. Whereas it is expedient to afford facilities to parties claiming land under the third and fourth sub-sections of the thirty-second section of the Act thirty-third Victoria, chapter three, to obtain Letters Patent for the same:—

> Be it enacted, that person satisfactorily establishing undisturbed occupancy of any lands within the Province prior to, and being by themselves or their servants, tenants or agents, or those through whom they claim, in actual peaceable possession thereof, on the fifteenth day of July, one thousand eight hundred and seventy, shall be entitled to receive Letters Patent therefor, granting the same absolutely to them respectively in fee simple.

S.C. 1879 42 Victoria c.32

An Act to explain and amend the "Act respecting the appropriation of certain Dominion Lands in Manitoba"

[Assented to 15th May, 1879]

In explanation and amendment of the Act passed in the thirty-seventh year of Her Majesty's reign, intituled *An Act respecting the appropriation of certain Dominion Lands in Manitoba*, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The expression "members of the family" in the second section of the Act first cited, shall be construed as having been intended to include the husband or wife of the half-breed head thereof, and the children of the deceased children of such head as representing them, or such of the persons so included as are living when the issue of the scrip is ordered, and none other; and the Governor in Council may determine the proportions in which, as well as the conditions on which, the scrip shall be distributed among members of the family entitled to share therein.

2. The expression "members of the family" shall be substituted for the expression "children" in the enacting portion of the fourth section of the Act first cited, and shall have the meaning hereby assigned to the same expression in the second section of the said Act; and scrip to be issued under the said fourth section shall be granted or distributed to such members of the

family, and on such conditions, and in such proportions as the Governor in Council may, from time to time, determine.

3. If there be then no member of the family living, any scrip to be issued under either of the said sections of the said Act, shall be dealt with according to the law of Manitoba, as if it were the personal property of the member of the family last deceased.

4. No person except such last deceased member as aforesaid, shall be held to have a vested interest in scrip under the said Act until it is ordered to be issued in his favour; but after such order, it shall, in case of his decease before he receives it, be dealt with and distributed as personalty, according to the law of Manitoba; and if the person entitled to scrip under the said Act be a minor, or insane, or otherwise incapacitiated from managing his affairs, it shall be issued or delivered to his guardian, curator or other person having charge of his personalty by the law of Manitoba, in trust, to be dealt with according to such law.

5. Provided always, that all issues of scrip and orders for the distribution thereof under the said Act, made by authority of the Governor in Council before the first day of January, 1879, are hereby confirmed and made valid.

The Manitoba Act Claims: Allotment under s.31 of the Manitoba Act

O.C. 1 March and 25 April 1871

Distribution of the 1,400,000 acres appropriated under the "Manitoba Act" for the benefit of the families of the half-breeds

1. Every half-breed resident in the Province of Manitoba at the time of the transfer thereof to Canada (the fifteenth day of July, A.D. 1870) and every child of every such half-breed resident, shall be entitled to participate in the 1,400,000 acres.

2. The most liberal construction shall be put on the word *resident*.

3. No conditions of settlement shall be imposed in grants made to half-breeds in pursuance of the provisions of the Act referred to, and there shall be no other restrictions as to their power of dealing with their lands when granted than those which the laws of Manitoba may prescribe.

4. The Lieutenant-Governor of Manitoba shall designate the Townships or parts of Townships in which the allotments to the half-breeds shall be made.

5. The mode of allotting these lands shall be as follows:—

a) If not already obtained, an accurate census shall be taken to determine the number of persons who may be entitled to participate.

b) Upon such Census the number of acres to which each may be entitled shall be ascertained.

c) The number and area of individual grants having been ascertained, the land selected by the Lieutenant Governor for the purpose shall be divided accordingly.

d) Tickets shall be prepared, say on some such form as the following; each to contain thereon a description of the lands intended to satisfy the particular claim for which it may happen to be drawn.

[A "Sample Ticket" appears at this point in the original]

A book of record shall be prepared also in which the names and particulars (see form suggested below) of all admitted claims shall be entered and consecutively numbered.

e) Everything being prepared, the tickets may be put into a box, and the Lieutenant Governor shall draw them at random. As drawn they shall be numbered and initialled by the Lieutenant Governor in regular consecutive order, and the land described on a ticket of a certain number shall go in satisfaction of the claim of corresponding number in the Register of Claims, and be entered accordingly.

6. Claimants of the age of 18 and over shall receive their patents without unnecessary delay, and minors on arriving at that age.

7. Recorded claims, when the claimant dies before being entitled by arriving at the age of 18 to receive a patent, shall be deemed real estate, and shall descend according to the laws from time to time in force in the Province of Manitoba. There can be no distinction of sex in making the allotment.

[A sample of the "Records of Claims" appears at this point in the original]

O.C. 26 April 1875 (406)

The Committee of Council have had under consideration the memorandum hereunto annexed from the Honorable the Minister of the Interior on the subject of the course to be pursued in order to define the individuals entitled to participate in the distribution of the 1,400,000 acres of land set apart for half-breed children by the 31st section of the *Manitoba Act*, and they respectfully submit their concurrence in the recommendation made in the said memorandum and advise that the same be approved and adopted.

Department of the Interior
Ottawa, April 9th, 1875

Memorandum

1. The undersigned has the honor to submit for the information of His Excellency the Governor General, copies of certain correspondence between this Department and His Honor the Lieutenant Governor of Manitoba, respecting the most advisable course to be pursued in order to define the individuals entitled to participate in the distribution of the 1,400,000 acres of land set apart for half-breed children by Section 31 of the Act 33 Victoria, Chap. 3, commonly known as the *Manitoba Act*.

2. The undersigned concurs so far in opinion with the Lieutenant Governor that he would recommend the publication of lists for each parish as drawn, such lists however simply to announce the names from the census of such parish included in the distribution, but not to contain a description of the lands allotted to each individual.

3. His Honour, it will be seen, recommends that claimants on the list in order, it is presumed, to be entitled to the patent, should prove their identity and their right to the quantity of land at the Land Office, instead of before Commissioners, as proposed.

4. The undersigned would respectfully represent that to investigate the several thousands of claims involved, in addition to the regular business of the office, would be quite out of the power of the agent in charge, and that therefore a Commissioner or Commissioners should be appointed for the special purpose.

5. He is further of opinion that the lists mentioned having been duly published and distributed for each parish, a Commissioner should visit the several parishes successively, having given due notice thereof, and take any and all evidence tendered on behalf of the claimants for such parish, and make full return thereof to the Lands Office, upon which return the patent should issue forthwith to the party so entitled, and to the others respectively, as the return might show them to arrive at the necessary age.

6. The Commissioners should receive the necessary authority to administer oaths.

7. The undersigned begs to submit for consideration the following as a form for the parish lists, that is to say:

> Whereas pursuant to the provisions of Section 31 of the Act 33 Victoria, Chap. 3 commonly known as the *Manitoba Act*, and of the Act 36 Victoria, Chap. 38 in amendment thereof, and also in pursuance of the Order in Council, dated 25th of April, 1871 under the first mentioned Act, the division of lands to the children of the half-breed heads of families has been effected for the Parish of the same having been based upon the census reported by His Honor the Lieutenant Governor of Manitoba, in December, 1870; and *whereas* in accordance therewith, lands have been allotted to the following persons, that is to say:

(Here follows the alphabetical list of names for such parish.)

Public notice is hereby given—

> a) That a Commissioner will attend at   in the above parish, on the day of   at ten o'clock a.m., for the purpose of receiving proof on behalf of the parties whose names are in the above list, or of any other parties claiming whose names do not appear thereon, of the right of such parties to participate in the half-breed grant.
>
> b) Such proof must be in each case by affidavit of the claimant, to be made before the Commissioner appointed to receive the same in his capacity as Commissioner.
>
> It must be further substantiated by the affidavits sworn as aforesaid, of two householders in the parish in which the allotment is claimed.
>
> c) That to entitle claimants to obtain patents for the lands allotted, such claimants are required respectively to furnish to the Commissioner appointed to receive the same, evidence on the following points:
>
> d) That the claimant is a child of a half-breed head of a family resident in the Province of Manitoba, on the 15th day of July, 1870.
>
> e) That the claimant is of the full age of eighteen years.
>
> f) Satisfactory evidence of identity on the part of the person claiming, and that he or she is entitled to his or her allotment of land as the child of a half-breed head of a family resident in Manitoba on the date above given.

8. To entitle claimants who have not attained the age of eighteen years to obtain patents as they may respectively attain such age such claimants are required to furnish evidence as follows:—

> g) That the claimant is a child of a half-breed head of a family resident in the Province of Manitoba on the date above mentioned.
>
> h) An affidavit of the half-breed head of the family, if living, and if dead or absent from the Province, other evidence satisfactory to the Commissioner,

of the date when the claimant will attain the full age of eighteen years, together with a certificate of his or her birth or baptism, if it be in the opinion of the Commissioner procurable.

i) Evidence satisfactory to the Commissioner of the identity of the claimant and that he or she is entitled to his or her allotment of land as the child of a half-breed head of a family as above mentioned.

9. To entitle persons claiming patents respectively for lands, as heirs to children who may have died since the 15th day of July, 1870, to receive the same, such persons are required to furnish to the Commissioner evidence on the following points:

k) That the deceased was the child of a half-breed head of a family resident in the Province of Manitoba on the 15th day of July, 1870.

l) A certificate of the birth or baptism of the child, and also one of its death if such be in the opinion of the Commissioner procurable; and if not, then such evidence as shall satisfy the Commissioner of such facts as the same may be alleged by the claimant.

m) That the claimant is the heir of the deceased child according to the law in force in Manitoba at the time of the death of such child.

10. The undersigned further submits that it is desirable that the Commissioner be instructed to report the number and names of persons of the following classes as entitled to participate in the said grant.

n) For the purposes of the grant, the term half-breed heads of families resident in the Province at the time of the transfer, shall be held to mean half-breed mothers equally with half-breed fathers, or both, as the case may be, and all children of a half-breed head or half-breed heads of families as above defined, shall be entitled.

o) Considering the exceptional condition of the country previous to the transfer, it is recommended that the illegitimate child of a half-breed parent shall be allowed to participate.

p) Orphan children of half-breed parents, the latter having died previous to the transfer, such children being resident in Manitoba at the said period, shall be entitled.

q) Children of half-breed heads of families resident in Manitoba at the period of the transfer, but who were themselves absent at the said time, and who may not have returned to the Province provided they were not at the time heads of families, shall be entitled.

11. The following class, the undersigned is of opinion, cannot justly be considered as having a right to share in the land grant, that is to say:—

Half-breed children living in the Province, at school or otherwise, at the time of the transfer, but whose parents or family were resident elsewhere at the said period.

12. According to the estimated number of children as taken from the census rolls, a division of the land gives one hundred and ninety acres to each, which quantity has therefore been allotted.

The undersigned further recommends that the Commissioners, to be appointed as above, be authorized and instructed, while attending in any parish to scrutinize claims to half-breed lands, to receive evidence on behalf of half-breed heads of families, of Selkirkers, and of other original white settlers who may claim a right to land or scrip under the provisions of the Act 37th Victoria, chap. 20 entitled, *An Act respecting the appropriation of certain Dominion Lands in Manitoba*, and that separate appropriate public notices be given in each parish by the Commissioners to that effect.

It may be that in consequence of being absent at the time, or for other good reasons, claimants may fail to prefer their claims before the Commissioners pursuant to notice. In such case they may attend on the Commissioners for that purpose in any other parish, and such claims as may not have been brought forward before the Commissioners shall have closed their labors, the undersigned recommends shall be received and adjudicated upon by the Agent of Dominion Lands; the said officer to be governed as regards evidence of claims, by the same rules as those laid down for the Commissioners.

O.C. 23 March 1876

On a Memorandum dated 17th March, 1876, from the Honorable the Minister of the Interior, reporting that the Commissioners appointed to examine into claims to Half-Breed Lands and to Scrip in Manitoba, under the Acts 33 Victoria, chap. 3, and 37 Victoria, chap. 20 have completed their investigations and submitting suggestions in reference to the issue of Patents for such lands and the distribution of scrip to the persons who have been severally reported as entitled thereto.

The Committee concur in the recommendations and suggestions submitted in said Memorandum, and recommend the same for your Excellency's approval.

Department of the Interior
Ottawa, 17th March, 1876

The undersigned has the honor to report for the information of His Excellency, the Governor General in Council, that the Commissioners appointed to examine into claims to Half-Breed Lands and to scrip in Manitoba, having completed their investigations, this Department is now in a position to move in the matter of the issue of patents for such lands and of the distribution of scrip to the persons who have been severally reported as entitled thereto.

The lands referred to consist of those appropriate under Section 31 of the Act 33 Victoria, chap. 3 for the children of Half-Breed heads of families residing in the Province at the time of the transfer to Canada; and the said lands were to "be granted to the said children, respectively, in such mode, and on such conditions as to settlement, or otherwise, as the Governor General in Council might from time to time determine".

The mode of allotting the lands and the classification of person among whom the same should be distributed, have been authoritatively settled; but, previous to the issue of patents, it is necessary to deal with applications which have been made by persons claiming to hold assignments of Half-Breed Land rights, who ask to have the patents issued to them, direct, under such assignments.

Respecting this question, the undersigned begs to state, that, with a view to discourage the operations of speculators in these lands, no prospect has been at any time held out that such assignments would be recognized by the Government; and, believing such policy to be directly in the interests of the persons for whose benefit the lands were appropriated, he respectfully recommends that the same now receive the authority of the Privy Council.

The other claims reported on by the Commissioners are those made under the Act 37 Victoria, chap. 20

Section 1 of this Act provides "that each Half-Breed head of a family resident in the Province on the 15th day of July, 1870, shall be entitled, in the discretion of and under regulations to be made by the Governor General in Council, to receive a grant of one hundred and sixty acres of land, or to receive scrip for one hundred and sixty dollars, the latter to be receivable in payment for the purchase of Dominion Lands."

Section 2 of the said Act, provides, that the term "Half-Breed heads of families" shall "be held to include Half-Breed mothers as well as Half-Breed fathers, or both, as the case may be, but that the land or scrip to which any Half-Breed mother shall be entitled shall be granted or allotted and given to such Half-Breed mother on such conditions as the Governor General may from time to time determine."

The said section further provides, "that, in the event of the death of any Half-Breed father or Half-Breed mother, or both, between the 15th day of July, 1870, and the granting of the land or issue of the scrip, the land or scrip to which such Half-Breed head of a family is entitled, shall be granted or distributed to such members of the family and on such conditions as the Governor General in Council may from time to time determine."

The undersigned has given the subject his attentive consideration, and, in view of the great dissatisfaction which has been caused in Manitoba by the locking up of large and valuable tracts of land for distribution among Half-Breeds, thus seriously retarding the settlement of the country, cannot recommend the setting apart of further tracts of land for such purpose, and suggests, therefore, that scrip issue to satisfy all claims under the Act above quoted. Such a course, he has reason to believe, would not be unsatisfactory to claimants.

He suggests the following as the conditions on which the scrip to Half-Breed heads of families shall be granted or distributed, that is to say:—

1. Persons entitled to scrip, to receive the same at the Lands Office for the district within the limits of which they may be resident.

2. The scrip to be delivered to the person entitled thereto, on his or her proper identification to the satisfaction of the Dominion Lands Agent, or to any person producing a properly executed and otherwise satisfactory power of Attorney from the claimant to receive the same.

The scrip for each Half-Breed mother to be delivered to such mother in her own person, or to such person as she may duly appoint her Attorney, as above, free in every way, in respect of such delivery or the appointment of such Attorney from the interference or control of her husband.

3. No assignment of a right to scrip, to be recognized by this Department as entitling the person claiming under such assignment to receive such scrip.

4. In the case of the death of either the Half-Breed father or mother, or both, previous to the issue of the scrip to which such Half-Breed father or mother would have been entitled, such scrip shall be equally divided among the children of the family; those of such children over the age of eighteen years, to receive their respective shares forthwith; those under the above age but over the age of fourteen years, to receive their scrip as they may severally attain the said age of eighteen years; and the shares of those under the age of fourteen years, to be delivered to the surviving parent, if such there be; if

neither parent be living, then to the legally appointed guardian of such children, in either case, for the exclusive use and benefit of the latter.

O.C. 7 September 1876

On a Memorandum, dated the 29th August, 1876, from the Hon. the Minister of the Interior, reporting that the result of the recent investigation of claims to share in the distribution of the 1,400,000 acres of land set apart by section 31 of the Act 33 Victoria Chap. 3, for the Children of Half-Breed heads of families proves that the estimate of the number of such children, based on the Census of December, 1870, was very considerably in excess.

That the number of claimants as made up from the census referred to, was about seven thousand, and the quantity of land proposed to be appropriated to each child was one hundred and ninety acres.

That before distributing the grant it became necessary to investigate the rights of the persons whose names appeared on the Census as belonging to the class for which it was intended, and Messrs. Ryan and Machar were respectively appointed Commissioners for this purpose.

That the report of the gentlemen named showed 5,088 persons as entitled, but stated that there was a number of claimants absent from the Province at the time of the investigation, some with their parents hunting buffalo, on the plains; others, members of families which had moved from Manitoba to Saskatchewan since the date of the Census; and Mr. Codd, agent of Dominion Lands, was duly authorized to take evidence and report on any further claims which might be preferred, to participate in the grant in question.

That Mr. Codd reports, under the date of the 10th instant, that the further inquiry intrusted to him has resulted in the investigation of 226 additional claims, and, after availing himself of the best evidence obtainable in the Province as to the number of persons remaining, who are likely in the future to prove entitled to share in the land, he places such number at 500 as being a perfectly safe margin to assume.

That for the purpose, however, of making a convenient distribution of the lands, it is proposed to place the number yet to come in at 519, which added to the number of claims already investigated *(see statement in margin hereof) would give the quantity of 240 acres to each child.

That no satisfactory explanation appears of the difference between the numbers of children as approximately obtained from the Census, and the actual number of claimants as above, believed to represent the whole element for which the grant was intended.

That the fact nevertheless exists, and in view of the same affecting directly the question of the quantity of land which should go to each claimant, renders a new distribution of lands necessary.

That based upon the number of claimants as obtained from the census, the quantity of 190 acres, as before stated, was proposed to be given to each child, and lands were accordingly, as a preliminary to the final distribution apportioned from the grant among the following Parishes, that is to say: St. Francois Xavier, St. John, Poplar Point, High Bluff, Portage la Prairie, St. Charles, St. Andrew, St. Agathe, St. Ann, Kildonan, St. Paul, St. Clement, St. Peter, Headingly, which apportionment included Township 4 Range 3 East, set apart by Lieutenant Governor Archibald for certain special families of Half-Breeds, and steps were taken by Lieutenant Governor

Morris to allot the same in manner as provided by the Order in Council in that behalf, but no distribution of any portion of the lands was made pending the investigation of claims as hereinbefore stated.

The Minister now recommends that the preliminary allotment in the several Parishes above referred to, be cancelled.

He further recommends that a new and final allotment of the grant in question be effected by Lieut. Governor Morris, the quantity of land for each child entitled to share in the grant, to be fixed at 240 acres.

> *1. Claims reported by the Commissioners 5088, since investigated by Mr. Codd, 226, margin now allowed to cover all remaining claims 519, total 5833.
>
> 2. 1,400,000 acres divided by 5833 claimants gives 240 acres to each person.

O.C. 4 December 1893 (3058)

On a report dated the 17th of November, 1893, from the Minister of the Interior, stating that there are lying in the Department of the Interior, unapplied for and undelivered several patents which issued some years ago to certain Half-breeds for the lands which were respectively allotted to them under the provisions of the Act 33 Victoria, chapter 3, section 31 and that the Order in Council of the 23rd March, 1876, among other things prohibits the acceptance of assignments of Half-breed allotments, and the patents referred to can only therefore, be delivered upon the written request of the patentees.

The Minister observes that the Order in Council establishing this practice was passed nearly eighteen years ago, and if it could have served the purpose for which it was adopted—that is, discouraging speculation in Half-breed lands—which is very doubtful, the period of its usefulness has certainly passed, and it now operates chiefly as an embarrassment in passing titles to lands in the Province which were originally allotted to Half-breeds, but which have long since passed into other hands.

The Minister, in order to enable the present owners of these properties to bring them under the provisions of the *Manitoba Real Property Act* and to obtain certificates of title therefor, recommends that the third and fourth paragraphs of the Order in Council of the 23rd March, 1876, hereinbefore referred to, be rescinded, and that in lieu thereof, it be provided that all the patents which have issued or may issue for Half-breed allotments in the Province of Manitoba be forwarded to the Registrar of the District in which the land is situated.

The Minister further recommends that a certified copy of this Minute, if approved, be forwarded by the Secretary of State to the Lieutenant-Governor of the Province of Manitoba, with a request that an order be issued to Registrars to receive and record all such patents so forwarded.

The Committee submit the above recommendations for your Excellency's approval.

The North-West Territories Claims

O.C. 28 January 1885 (135)

On a Memorandum dated 26th January, 1885, from the Minister of the Interior, submitting that it is desirable with a view to settling equitably the claims of Half-Breeds in Manitoba and the North-West Territories who would have been entitled to land had they resided in Manitoba at the time of the transfer and filed their claims in due course under the *Manitoba Act*, and also of those who though residing in Manitoba and equitably entitled to participate in the grant, did not do so,—to ascertain the number of such Half-Breeds, and recommending that he be authorized to obtain an enumeration of them, and to employ three persons to make such enumeration.

O.C. 30 March 1885 (688)

On a Report dated 28th March, 1885, from the Minister of the Interior, submitting that by Sub-clause e) of Clause 81 of the *Dominion Lands Act*, 1883, it is provided that the Governor in Council shall have power "to satisfy any claims existing in connection with the extinguishment of the Indian title, preferred by half-breeds resident in the North-West Territories, outside of the limits of Manitoba, previous to the fifteenth day of July, one thousand eight hundred and seventy, by granting land to such persons, to such extent, and on such terms and conditions as may be deemed expedient," and he is of opinion that it is expedient that those claims should be satisfied by granting:—

1. To each half-breed head of a family resident in the North-West Territories outside of the limits of Manitoba previous to the 15th day of July, one thousand eight hundred and seventy, the lot or portion of land of which is at the present time in *bona fide* and undisputed occupation by virtue of residence upon and cultivation thereof, to the extent of one hundred and sixty acres; and if the lot or portion of land of which he is in *bona fide* occupation, as aforesaid, should be less than one hundred and sixty acres, the difference to be made up to him by an issue of scrip, redeemable in land, at the rate of one dollar per acre, and in the case of each half-breed head of a family residing in the North-West Territories, previous to the 15th day of July, one thousand eight hundred and seventy, who is not at present in *bona fide* occupation of any land, scrip be issued, redeemable in land, to the extent of one hundred and sixty dollars.

2. To each child of a half-breed head of a family residing in the North-West Territories previous to the 15th day of July, 1870, and born before that date, the lot or portion of land of which he is at the present time in *bona fide* and undisputed occupation by virtue of residence upon and cultivation thereof, to the extent of two hundred and forty acres; and if the lot or portion of and of which is in *bona fide* occupation, as aforesaid, should be less than two hundred and forty acres, the difference to be made up to him by an issue of scrip, redeemable in land at the rate of one dollar per acre; and in the case of each child of a half-breed head of a family residing in the North-West Territories previous to the 15th day of July, one thousand eight hundred and seventy, who is not at present in *bona fide* occupation of any land, scrip be issued, redeemable in land, to the extent of two hundred and forty dollars.

The Minister of the Interior, on representations made that it was desirable to have made an enumeration of half-breeds in Manitoba and the North-West Territories who would have been entitled to land had they resided in Manitoba at the time of the transfer, was authorized by Your Excellency in Council, under date the 28th of January last, to appoint commissioners, and the following gentlemen were accordingly appointed to carry into effect the said Order of Your Excellency in Council, namely:—William Purvis Rochfort Street, of the City of London, in the Province of Ontario, one of Her Majesty's Counsel, learned in the law, who is to be the Chairman of the Commission;

Roger Goulet, of the Town of St. Boniface, in the Province of Manitoba, Dominion Lands Surveyor, and Amédée Edmond Forget, of the Town of Regina, in the Provisional District of Assiniboia, clerk of the North-West Council, and barrister-at-law.

The Minister of the Interior is of opinion that the scope of the enquiry to be made by the Commissioners appointed under the authority of the Order of Your Excellency in Council above mentioned should be enlarged, and that they be empowered not only to enumerate the half-breeds resident in the North-West Territories, outside of the limits of Manitoba, previous to the fifteenth day of July, one thousand eight hundred and seventy, but also to report from time to time to the Minister of the Interior the persons who are entitled to be dealt with under Sub-clause e of Clause 81 of the *Dominion Lands Act*, 1883, and also the extent to which they are entitled, it being understood that the expression "North-West Territories" contained in the third line of Sub-clause e of Clause 81 of the *Dominion Lands Act* of 1883 shall, for the purpose of the enumeration and report to be made by the Commissioners, be held to include all that portion of the Province of Manitoba as now constituted, which was not within the said Province as constituted under the *Manitoba Act* (33 Victoria, Chap. 3)

The Minister deems it important that the said Commissioners be authorized under Clause 83 of the *Dominion Lands Act* of 1883, to summon witnesses before them by subpoena issued by them, to examine such witnesses under oath, and generally to do all things and exercise all powers and functions provided for by the said Clause 83 of the *Dominion Lands Act*, 1883.

The Minster therefore recommends that the Order of Your Excellency in Council of the 28th January last, herein-before referred to, be cancelled.

The Minister of the Interior recommends that the Commissioners who shall make the enumeration and report herein provided for, be the same as were appointed under the authority of the above-mentioned Order of Your Excellency, namely:—William Purvis Rochfort Street, of the City of London, in the Province of Ontario, one of Her Majesty's Counsel, learned in the law, who shall be the Chairman of the Commission; Roger Goulet, of the Town of St. Boniface, in the Province of Manitoba, Dominion Lands Surveyor; and Amédée Edmond Forget, of the Town of Regina, in the Provisional District of Assiniboia, clerk of the North-West Council, and barrister-at-law.

The Committee concur in the foregoing report and the recommendations therein contained, and they advise that the above-named be constituted a Commission, with all the powers recommended by the Minster of the Interior.

O.C. 18 April 1885 (821)

The Committee, on the recommendation of the Minister of the Interior, advise that the Order in Council dated 30th March *ultimo*, making provision for the manner in which claims existing in connection with the extinguishment of the Indian title, preferred by Half-breeds resident in the North-West Territories outside of the limits of Manitoba previous to the 15th day of July, 1870, be amended by providing;—

1. That the small water frontages of which Half-breeds are at present in *bona fide* possession, by virtue of residence and cultivation, be sold to them at one dollar per acre, the area in no case to exceed forty acres, and payment therefor to be made within two years.

2. That in satisfaction of their claims as actual settlers upon these small water frontages which are proposed to be sold to them, they be permitted to select from lands open for homestead and pre-emption entry as nearly as possible in the vicinity of their holdings one quarter section of 160 acres, more or less, the patent for which however, shall not issue until payment has been made in full for the lands of which they are now in occupation as aforesaid.

3. That in the case of children of Half-breed heads of families residing in the North-West Territories prior to the 15th of July, 1870, and born before that date, instead of an issue of $240 in Scrip, they be granted a certificate entitling them to select 240 acres of land from any lands open for homestead and pre-emption entry.

Notice 13 April 1892

Notice

Claims of Half-breeds and Original White Settlers in North-West Territories

Whereas by the Act 49 Victoria, chapter 54, sub-clause f) of clause 90, *Revised Statutes of Canada*, it is provided that the Governor in Council shall have power to "grant lands in satisfaction of any claims existing in connection with the extinguishment of the Indian title, preferred by Half-breeds resident in the North-West Territories, outside of the limits of Manitoba, previous to the 15th day of July, 1870, to such persons, to such extent, and on such terms and conditions as are deemed expedient";

And whereas by Order in Council dated the 30th March, 1885, and the several Orders in Council subsequently passed in that behalf under the authority of the said Act 49 Victoria, chapter 54, it is provided,—

1. That each Half-breed head of a family who was resident in that portion of the North-West Territories ceded by the Indians under treaty with the Government of Canada and outside the limits of Manitoba, previous to the 15th of July, 1870, shall receive, upon satisfactory evidence in support of his or her claim being furnished, an issue of $160 in scrip redeemable in Dominion lands:

2. That each child of a Half-breed head of a family, or of an Indian and white parents, who was unmarried and resident in the said portions of the North-West Territories ceded by the Indians under treaty and outside the limits of Manitoba, previous to the 15th July, 1870, and born before that date, shall receive at his or her option an issue of $240 in scrip redeemable in Dominion lands, or a land scrip entitling such child to select 240 acres of land from any lands open for homestead entry;

And whereas by an Order in Council dated the 19th April, 1886, it is also provided that the persons known as "Original White Settlers," who went to any part of the North-West Territories in which the Indian title has been extinguished, between the years 1813 and 1835 both inclusive, or the children of such persons not being Half-breeds, born and living on the 26th day of May, 1874, and residing therein at that date, shall receive, upon satisfactory evidence in support of his or her claim being furnished, an issue of $160 in scrip redeemable in Dominion lands;

And whereas the Governor General in Council, in view of the fact that all such persons have had ample time and have been given every possible facility to submit the necessary evidence in support of their claims to participate in the grant of scrip or land aforesaid before the several Commissions at the sittings held by such Commissions at various points in the North-West Territories and Manitoba, or before the Commissioner of Dominion Lands or any Agent of Dominion Lands, has deemed it expedient by an Order in Council dated the 12th March, 1892, to limit the time within which all claims of the nature above specified may be presented; therefore

Public notice is hereby given, that all claims of Half-breeds and Original White Settlers to land or scrip under the provisions of the said hereinbefore recited Act and Orders in Council that are not filed with the Commissioner of Dominion Lands, an Agent of Dominion Lands, or such other person as may be duly authorized by the Minister of the Interior to receive them, on or before the 1st day of May, 1894, together with the necessary proof, shall cease and determine.

By order
John R. Hall, Secretary
Department of the Interior
Ottawa, 13th April, 1892

COAL MINING

The Early Years: 1872 to 1881

S.C. 1872 35 Victoria c. 23 ss.43-45

43. Coal lands designated by the Government as such are hereby withdrawn from the operation of this Act as regards the rights of squatters to homesteads on the Dominion lands in advance of the Surveys.

44. Any person or persons desiring to carry on coal mining in unsurveyed territory, shall be protected in the possession of the lands on which such mining may be carried on,—provided, that before entering on the working of such mines, such person or persons make written application to the Local Agent to purchase such land: such application must be accompanied by a description by a Deputy Surveyor setting forth generally the situation and the dimensions of such land, and shall also be accompanied by payment of the price thereof, estimating the number of acres (which shall not exceed six hundred and forty) at the rate of one dollar per acre. Such application shall be filed by the Agent receiving the same—and on the survey of the Township containing the land applied for being effected, the claimant or claimants shall be entitled to a patent for such number of acres, in legal subdivisions including and covering the mine worked, as shall correspond to the application and to the extent of land paid for.

Provided that such mine shall have been continuously worked during the interim between the application and the survey; but if the same should at any time during such interim cease to be worked for twelve consecutive months, unless the lands in question be no longer valuable for mining purposes, then the claim of the parties to the land shall lapse, and the mine shall be forfeited to the Crown, together with any and all purchase money which may have been paid to the Government on account thereof.

45. The Secretary of State, with the view of preventing undue monopoly in coal lands, may in his discretion, on a township being surveyed, exempt from the sale and settlement provisions of this Act the sections or other legal subdivisions of land which may be said to contain coal, except those on which

mining may have been carried on under the next preceding clause; and the same shall be subsequently sold or otherwise dealt with in such manner as may be deemed expedient by the Governor in Council.

S.C. 1874 37 Victoria c.19 s.9

9. Section forty-four of the said hereinbefore first cited Act is hereby repealed, and the following is substituted for and shall be read as the said section forty-four—

> 44. The Minister of the Interior shall have the power to protect any person or persons desiring to carry on coal mining in unsurveyed territory, in the possession of the lands on which such mining may be carried on,—provided, that before entering on the working of such mines, such person or person makes written application to the local agent to purchase such land; such application must be accompanied by a description by a deputy surveyor setting forth generally the situation and the dimensions of such land, and shall also be accompanied by payment of the price thereof, estimating the number of acres (which shall not exceed six hundred and forty) at the rate of one dollar per acre. Such application shall be filed by the agent receiving the same—and on survey of the township containing the land applied for being effected, the claimant or claimants shall be entitled to a patent for such number of acres, in legal subdivisions, including and covering the mine worked, as shall correspond to the application and to the extent of land paid for:
>
> Provided that all operations under this section shall be subject to the rights of the Hudson's Bay Company to sections 8 and 26 as hereinbefore enacted: Provided further, that the survey of the township within which such land may be situate, shall not be delayed beyond a period of five years after the date of the purchase of such land, without the consent of the Hudson's Bay Company thereto first had and obtained:
>
> Provided further that such mine shall have been continuously worked, to the satisfaction of the Minister of the Interior during the interim between the application and the survey; but if the same should at any time during such interim cease to be worked for twelve consecutive months, unless the lands in question be no longer valuable for mining purposes, then the claim of the parties to the land shall lapse, and the mine shall be forfeited to the Crown, together with any and all purchase money which may have been paid to the Government on account thereof.

S.C. 1879 42 Victoria c.31 s.46

46. The Minister of the Interior, with the view of preventing undue monopoly in coal lands, may, in his discretion, on a township being surveyed, exempt from the sale and settlement provisions of this Act, the sections or other legal subdivisions of land which may be said to contain coal, except those on which mining may have been carried on under the next preceding clause; and the same shall be subsequently sold or otherwise dealt with in such manner as may be deemed expedient by the Governor in Council.

S.C. 1880 43 Victoria c.26 s.6

6. Sections thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-four, forty-five and forty-six are hereby repealed, and the following section is substituted for the said sections so repealed:—

> Lands containing coal or other minerals, whether in surveyed or unsurveyed territory, shall not be subject to the provisions of this Act respecting

sale or homestead, but shall be disposed of in such manner and on such terms and conditions as may, from time to time, be fixed by the Governor in Council, by regulations to be made in that behalf,—which regulations shall not go into operation until after they shall have been published for four successive weeks in the *Canada Gazette* and laid before both Houses of Parliament for thirty days without disapproval by either House.

The Initial Leasing System: 1881 to 1882

O.C. 17 December 1881 (1687)

His Excellency the Administrator of the Government, on the recommendation of the Minister of the Interior, and under the provisions of the Act 43 Victoria, chapter 26, has been pleased to order, and it is hereby ordered, that the following regulations for the disposal of Coal Lands be and the same are hereby adopted:—

1. That leases of mining locations may be granted for twenty-one (21) years to applicants—in the order of their applications—who have satisfied the Minister of the Interior of their means and ability to work efficiently the mines applied for, an annual ground rent therefor of twenty-five cents an acre, to be paid half-yearly in advance;

2. That the lessee shall pay a royalty of ten cents per ton on all coal taken out of the mine,—quarterly returns, made under oath, to be furnished to the Minister of the Interior, by the lessee, showing the quantity of coal taken out, the dues thereon to be paid at the time of making such return:

3. That the area to be leased to one person shall not exceed three hundred and twenty (320) acres:

4. That the boundaries beneath the surface of such locations, shall be the vertical planes or lines in which their surface boundaries lie:

5. That failure to commence active operations within one year and to work the mine within two years after the commencement of the term of the lease, or to pay the ground rent or royalty, shall subject the lessee to forfeiture of the lease and resumption of the land by the Crown:

6. The lease to be renewable for further periods of twenty-one years each, and for such ground rent and royalties as may at the time of renewal be agreed upon by the Government and the lessee.

Coal Districts: 1882 to 1889

O.C. 26 December 1882

On a Report dated 18th December, 1882, from the Minister of the Interior, submitting with reference to the Regulations which govern the leasing of Coal Lands, approved by Order in Council of 17th December, 1881, that while under these Regulations, no individual is permitted to acquire more than 320 acres, yet persons who become lessees cannot be prevented from uniting and forming themselves into companies, and thus large areas of territory might be brought under one management in violation of the spirit of the Regulations:

That if this were to be allowed the Minister apprehends that the area within which *bona fide* mining would be carried on might be seriously restricted, and that the revenue derived from the Coal Lands would be much less than it ought to be.

The Minister after giving the subject his best consideration recommends that the leasing of Coal Lands be discontinued, and that with the exception of the fourth clause—"That the boundaries beneath surface, of such locations, shall be the vertical planes or lines in which their surface boundaries lie," the Regulations governing the same be cancelled.

The Minster further recommends in lieu of leasing Coal Lands, that certain Districts in which the known existence of coal in large quantities, and in proximity to facilities for reaching market, indicates them as the early seats of the coal mining industry in the North-West Territories, be withdrawn from ordinary sale and from settlement and declared to be "Coal Districts," and that the said Coal Districts be known as those of the Souris River, the Bow River, the Belly River and the Saskatchewan River.

The Minister recommends after consultation with the Director of the Geological Survey that the said Districts, for the present, be composed as follows: viz:—

1. The Souris River Coal District shall consist of thirty-eight and a half Townships, being Townships numbers one and the south halves of Townships numbers two in Ranges numbers four, five and six; Township numbers one and two in Ranges numbers seven and eight; Townships numbers one, two and three in Ranges numbers nine and ten; Townships numbers one, two, three and four in Range number eleven; Townships numbers one, two, three, four and five in Ranges numbers twelve and thirteen; Townships numbers two, three, four and five in Range number fourteen; Townships numbers three, four and five in Range number fifteen; Townships numbers four and five in Range number sixteen, and Township number five in Range number seventeen. All west of the Second Principal Meridian.

2. The Bow River Coal District shall consist of twelve townships; being Townships numbers nineteen, twenty and twenty-one in Ranges numbers eighteen and nineteen, and Townships numbers twenty, twenty-one and twenty-two in Ranges numbers twenty and twenty-one—All west of the Fourth Principal Meridian.

3. The Belly River Coal District shall consist of nine townships; being Townships numbers eight, nine and ten in Ranges numbers twenty-one, twenty-two and twenty-three—west of the Fourth Principal Meridian.

4. The Saskatchewan River Coal District shall consist of eighteen townships; being Townships numbers eleven, twelve, thirteen, fourteen, fifteen and sixteen in Ranges numbers three, four and five—west of the Fourth Principal Meridian.

The Minister also recommends that the land within the said Coal Districts be surveyed as soon as possible, and thereafter, be periodically offered for sale by tender or at public auction at an upset price per acre, the same together with the terms and conditions of sale, to be fixed, from time to time by the Minister of the Interior.

The Minister further recommends in respect to the leases which have already been granted under the existing regulations, that each lessee who has fulfilled the conditions thereof, may, within two years from the date of the Order in Council authorizing his lease, convert the leasehold into freehold by paying in cash the upset price placed by the Minister of the Interior upon the lands in the Coal District wherein the said leasehold is situate; and that in all cases where the conditions of the said Regulations—

especially clause five thereof—have not been fulfilled by the lessee, the leases should be held to be absolutely null and void.

The Committee concur in the foregoing Report and recommendations therein submitted, and they advise that the same be approved and carried into effect, saving the rights of Lessees and of persons in favour of whom Orders in Council authorizing leases have been passed.

O.C. 2 March 1883

Regulations for the disposal of coal lands approved by His Excellency the Governor General in Council, in conformity with the 42nd section of the *Dominion Lands Act* of 1883; approved by His Excellency the Governor General in Council on the 26th December, 1882, and the 2nd March, 1883.

1. The following districts have been set apart and the lands therein withdrawn from ordinary sale and from settlement and declared to be coal districts, the same to be known as those of the Souris River, the Bow River, the Belly River, and the Saskatchewan River, the said districts for the present to be composed as follows:—

Souris River Coal District

Townships 1 and south halves of 2, ranges 5 and 6, west of second meridian
Townships 1, 2, 3, ranges 7, 8, west of second meridian
Townships 1, 2, 3, ranges 9, 10, west of second meridian
Townships 1, 2, 3, 4, range 11, west of second meridian
Townships 1, 2, 3, 4, 5, ranges 12, 13, west of second meridian
Townships 2, 3, 4, 5, range 14, west of second meridian
Townships 3, 4, 5, range 15, west of second meridian
Townships 4, 5, range 16, west of second meridian
Township 5, range 17, west of second meridian.

Bow River Coal District

Townships 19, 20, 21, ranges 18, 19, west of fourth meridian
Townships 20, 21, 22, ranges 20, 21, west of fourth meridian

Belly River Coal District

Townships 8, 9, 10, ranges 21, 22, 23, west of fourth meridian

Saskatchewan River Coal District

Townships 11, 12, 13 ranges, 2, 3, 4, 5, 6, 7, 8, 9, 10, west of fourth meridian
Townships 14, 15, 16 ranges, 2, 3, 4, 5, west of fourth meridian.

2. The land within the said coal districts will be surveyed as soon as possible, and thereafter will be periodically offered for sale, by tender or public auction, at an upset price; the same together with the terms and conditions of the sale, to be fixed from time to time by the Minister of the Interior.

3. With respect to the leases which have already been granted, each lessee who has fulfilled the conditions thereof may, within two years from the date of the Order in Council authorizing his lease, convert the leasehold into freehold, by paying in cash the upset price placed by the Minister of the Interior on the lands in the coal district wherein the said leasehold is situated: but the lease shall be null and void in all cases where the conditions have not been fulfilled by the lessee, specially the conditions contained in clause 5 of the said regulations, which is as follows: "That failure to

commence active operations within one year and to work the mine within two years of the commencement of the term of the lease, or to pay the ground rent or royalty, shall subject the lessee to forfeiture of the lease and resumption of the land by the Crown."

4. In cases where the Minister of the Interior satisfies himself that companies, or persons, have expended considerable sums of money in exploring for coal within the limit of any district for which they may have applied under the regulations of the 17th December, 1881 the said lands may be sold to such companies or persons at the upset price fixed for lands in the coal district in which such tract may be situated.

5. The boundaries beneath the surface of coal mining locations shall be the vertical planes or lines in which their surface boundaries lie.

6. The rights of lessees, and of persons in favour of whom Orders in Council authorizing leases have been passed, shall not be affected by these regulations, except in so far as they may be consistent therewith.

O.C. 13 April 1886

By an Order in Council of Tuesday, 13th day of April, 1886, the coal lands withdrawn from ordinary sale and from settlement and declared to be coal districts by Order in Council of the 26th December, 1882, as amended by the Orders in Council of the 2nd March, 1883, and 26th March, 1884, and known as the "Souris River," the "Bow River," the "Belly River," the "South Saskatchewan River," the "North Saskatchewan River," and the "Cascade" coal districts, were opened for settlement, reserving, however, the coal mining rights therein.

O.C. 11 January 1888

By Order in Council, dated Wednesday 11th day of July, 1888, under the provisions of the 1st section of chapter 56 of the *Revised Statutes of Canada*, intituled *An Act respecting Public Lands in British Columbia*, the Regulations for the disposal of coal lands in the Province of Manitoba and in the North-West Territories, annexed, were declared to govern the disposal of Dominion Lands in the Railway Belt in the Province of British Columbia containing coal:—

Regulations

1. The following districts have been set apart and declared to be coal districts, the same to be known as those of the Souris River, the Bow River, the Belly River, the South Saskatchewan River, the North Saskatchewan River, the Cascade, and a district at Wood Mountain and its vicinity.

These lands were withdrawn from ordinary sale; but the even numbered sections, with the exception of Hudson's Bay Company Lands, are open for settlement, subject, however, to the reservation of the coal and other mineral rights therein.

Souris River Coal District

Township 1, and south halves of 2, ranges 4, 5, and 6, west of the 2nd meridian
Townships 1, 2, 3, ranges 7, 8, 9, 10, west of 2nd meridian
Townships 1, 2, 3, 4, range 11, west of 2nd meridian
Townships 1, 2, 3, 4, 5, ranges 12, 13, west of 2nd meridian
Townships 2, 3, 4, 5, range 14, west of 2nd meridian
Townships 3, 4, 5, range 15, west of 2nd meridian

Townships 4, 5, range 16, west of 2nd meridian
Township 5, range 17, west of 2nd meridian,.

Bow River Coal District

Townships 19, 20, 21, ranges 18, 19, west of 4th meridian
Townships 20, 21, 22, ranges 20, 21, west of 4th meridian,.

Belly River Coal District

Townships 8, 9, and 10, range 21;
Those portions of townships 8 and 9 not included in the Blood Indian Reserve, and the whole of township 10, in range 22; those portions of townships 8 and 9 not included in the Blood Indian Reserve, and the whole of township 10, in range 23, all west of the 4th principal meridian,.

South Saskatchewan River Coal District

Townships 11, 12, 13, ranges 2, 3, 4, 5, 6, 7, 8, 9, 10, west of 4th meridian
Townships 14, 15, 16, ranges 2, 3, 4, 5, west of 4th meridian,.

North Saskatchewan River Coal District

Townships 50 and 51, and the south half of township 52, range 25
Townships 50 and 51, range 26
Townships 50 and 51, range 27
Townships 50 and 51 in the fractional portion of range 28, all west of the 4th Principal Meridian
Also Townships 50 and 51, range 1
Also Townships 50 and 51, range 2
Also Townships 50 and 51, range 3
Also Township 50, range 4
All west of the 5th principal meridian, in the Provisional District of Alberta

Cascade Coal District

The north-west quarter of township 25, range 11
The south-west quarter of township 26, range 11
The north-east quarter of township 25, range 12
The south-east quarter of township 26, range 12
All west of the 5th principal meridian, in the Provisional District of Alberta, but excluding therefrom that portion of the said described area which is covered by the right of way and station grounds of the Canadian Pacific Railway.

District at Wood Mountain and its Vicinity

Townships 1, 2, 3, 4, 5, 6, 7, ranges 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, west of 2nd meridian
Townships 1, 2, 3, 4, 5, 6, 7, ranges 1, 2, 3, 4, 5, 6, 7 8, west of 3rd meridian.

2. The surveys of the lands within the said coal districts will be completed as soon as possible, and thereafter the lands will be periodically offered for sale by tender or public auction. The lands within the "Cascade Coal District" at an upset price of $20 per acre, cash, and the lands within all the other coal districts, at an upset price of $10 per acre, cash.

a) Not more than three hundred and twenty acres shall be sold to one applicant.

b) When there is more than one applicant for the same coal location, the Minister of the Interior may invite competition between the several applicants, or offer the land for sale at public competition by tender or by auction as he may think expedient, at the upset price of coal lands in the district in which such coal location is situated.

c) When applications are made to purchase coal locations situated outside of the organized coal districts, the Minister of the Interior may sell the same to the applicants at the price and on the terms which would apply if the lands were within an organized coal district, and with due regard to the quality of the coal which the said lands may be found to contain.

3. With respect to leases which have already been granted, each lessee who has fulfilled the conditions thereof may, within two years from the date of the Order in Council authorizing his lease, convert the leasehold into freehold by paying in cash the upset price placed by the Minister of Interior on the lands in the coal district wherein the said leasehold is situated; but the lease shall be null and void in all cases where the conditions have not been fulfilled by the lessee, especially the conditions contained in clause 5 of the said regulations, which is as follows: "That failure to commence active operations within one year and to work the mine within two years of the commencement of the term of the lease, or to pay the ground rent or royalty, shall subject the lessee to forfeiture of the lease and resumption of the land by the Crown."

4. In cases where the Minister of the Interior satisfies himself that companies, or persons, have expended considerable sums of money in exploring for coal within the limit of any district for which they may have applied under the Regulations of the 17th December, 1881, the said lands may be sold to such companies or persons at the upset price fixed for lands in the coal district in which such tract may be situated.

5. The boundaries beneath the surface of coal mining locations be the vertical planes or lines in which their surface boundaries lie.

6. The rights of lessees, and of persons in favour of whom Orders in Council authorizing leases have been passed, shall not be affected by these Regulations.

Sale of Coal Lands: 1889 to 1907

C.R.C. 1889 c. 97 ss.34-51

34. a) Lands containing anthracite coal may be sold at an upset price of $20.00 per acre, cash, and coal other than anthracite, at an upset price of $10.00 per acre, cash, or may be sold by public competition if the Minister of the Interior shall so decide.

b) Not more than three hundred and twenty acres shall be sold to one applicant.

35. When there is more than one applicant for the same coal location, the Minister of the Interior may invite competition between the several applicants, or offer the land for sale at public competition by tender or by auction as he may think expedient at the upset price of coal lands.

36. In cases where the Minister of the Interior satisfies himself that companies, or persons, have expended considerable sums of money in exploring for coal on lands for which they may have applied under the Regulations of the 17th of December, 1881, the said lands may be sold to such companies or persons at the upset price fixed for such lands.

37. The boundaries beneath the surface of coal mining locations shall be the vertical planes or lines in which their surface boundaries lie.

38. The rights of lessees, and of persons in favor of whom Orders in Council authorizing leases have been passed, shall not be affected by these Regulations.

39. The Minister of the Interior may upon application, grant permission to prospect for coal for a period of sixty days, and such permission may cover any single tract of land not exceeding three hundred and twenty acres in extent.

40. If the land sought for be not included in any surveyed township, the applicant shall stake out the same, by placing at each angle or corner thereof a stake or post at least four inches square, and standing not less than four feet above the surface of the ground; and upon each post he shall inscribe his name and the angle represented thereby thus: "A. B's.N.E. Corner" (meaning North-East Corner) or as the case may be; except such posts are so planted before an application for permission to prospect is made, all the proceedings taken by the applicant shall be void; also with his application he shall forward to the Minister of the Interior a map or sketch of the land as staked out, specifying metes and bounds, and showing thereon the best information in his power respecting the same, and all boundaries so staked out shall be due north and south, and east and west lines, and the length thereof shall not exceed twice the breadth; if, however, the land has already been included in any general survey then the official number of the section or sections, parts or legal sub-divisions of a section shall be given.

41. The party or parties to whom permission to prospect may be given, shall, within one month from the date of such permission, commence operations and carry on the same continuously throughout the remainder of the period covered thereby; and shall expend in such prospecting a sum at the rate of not less than $2.00 per day from the time of commencement of the same; and the permission so given shall become void if the said operations cease for one week during the remainder of the period for which such permission is given.

42. On application to the Minister of the Interior, the time covered by permission to prospect, may be extended, if the applicant has complied with the above requirements, and provided there are no other applicants for the lands comprised therein; should there be others, however, it will be necessary that the right to prospect be acquired by competition amongst the applicants.

43. If the time covered by permission to prospect be extended it will be necessary that prospecting operations be carried on continuously from the date of such extension.

Lands patented or entered, on which the mining rights have been reserved

44. a) Any person or persons desirous of obtaining permission to prospect for minerals on lands that have been patented or entered and on which the mining rights have been reserved, shall make application therefor to the Minister of the Interior.

b) Such application shall be in writing, defining clearly the area applied for, which area must not exceed 320 acres.

c) If the Minister of the Interior sees no objection to the application being granted, the applicant will be given permission to prospect for a period of sixty days, upon furnishing the Minister with proof that he has complied with the provisions of the following subsection.

d) The applicant shall enter into a bond, with two sureties to the satisfaction of the Superintendent of Mines, to recompense the owner or occupant of the soil for damages that may be done to his lands.

e) If the proprietor of lands so entered upon shall seek damages, he shall before the end of two months after the expiration of the permission given, make his claims in writing against the prospector, detailing the particulars and amount of claim; and if the claim is not adjusted by agreement between the parties within one month after notice thereof as aforesaid, it shall be settled by arbitration in the manner prescribed in sections 50 and 51 of these regulations.

45. a) The permission given to prospect shall be subject to the conditions of section 41 of these regulations.

b) A renewal for a further period of sixty days may be granted provided that the conditions of these regulations have been complied with, but should there be other applicants for the lands over which permission to prospect has been given, competition amongst the same will be invited.

46. No permission to prospect shall authorize entry upon any buildings, or the curtilage appertaining to any house, store, barn or building, or upon any garden, orchard, or grounds reserved for ornament, or under cultivation by growing crops, and enclosed; except with the consent of the occupier or permission from the Minister of the Interior upon special application setting forth the circumstances under which the same is applied for, and on such terms as the case may require.

47. If, at the expiration of the period for which permission has been given to prospect on lands, it be desired to acquire the mining rights thereunder, they will be sold at the rate and on the terms prescribed by the mining regulations, less the price ruling for surface rights in the class in which the lands may be situated.

48. Before a patent of the mining rights of any lands can be issued, it will be necessary for the party obtaining the same, to furnish proof to the Minister of the Interior that he has acquired the surface rights of the lands from the owner or agent or occupier of such lands.

49. If the occupier of the lands has not received a patent therefor, the purchase money of the surface rights must be paid to the Crown, and a patent of the surface rights will issue to the party who acquired the mining rights. The money so collected will either be refunded to the occupier of the land, when he is entitled to a patent therefor, or will be credited to him on account of payment for land.

50. When the party obtaining the mining rights to lands can not make an arrangement with the owner or his agent or the occupant thereof for the acquisition of the surface rights, it shall be lawful for him to give notice to the owner or his agent or the occupant to appoint an arbitrator to act with another arbitrator named by him, in order to award the amount of compensation to which the owner or occupant shall be entitled. The notice mentioned in this Section shall be according to a form to be obtained upon application from the Agent of Dominion Lands for the District in which the lands in question lie, and shall, when practicable, be personally served on

such owner, or his agent if known, or occupant; and after reasonable efforts have been made to effect personal service, without success, then such notice shall be served by leaving it at, or sending by registered letter to the last place of abode of the owner, agent or occupant. Such notice shall be served if the owner or agent resides in the District in which the land is situated, ten days; if out of the District and within the Province, twenty days, and if out of the Province, thirty days, before the expiration of the time limited in such notice. If the proprietor refuses or declines to appoint an arbitrator, or when for any other reason, no arbitrator is appointed by the proprietor in the time limited therefor in the notice provided for by this Section, the Agent of Dominion Lands for the District in which the lands in question lie, shall, on being satisfied by affidavit that such notice has come to the knowledge of such owner, agent or occupant, or that such owner, agent or occupant wilfully evades the service of such notice, or can not be found, and that reasonable efforts have been made to effect such service, and that the notice was left at the last place of abode of such owner, agent or occupant, appoint an arbitrator on his behalf.

51. a) All the arbitrators appointed under the authority of these regulations shall be sworn before a Justice of the Peace to the impartial discharge of the duties assigned to them, and they shall forthwith proceed to estimate the reasonable damages which the owners or occupants of such lands, according to their several interests therein, shall sustain by reason of such prospecting operations.

b) In estimating such damages, the arbitrators shall determine the value of the land irrespectively of any enhancement thereof from the existence of minerals therein.

c) In case such arbitrators cannot agree, they may select a third arbitrator; and when the two arbitrators cannot agree upon a third arbitrator, the Agent of Dominion Lands for the District in which the lands in question lie, shall select such third arbitrator.

d) The award of any two such arbitrators made in writing shall be final, and shall be filed with the Agent of Dominion Lands for the District in which the lands lie.

O.C. 6 February 1901

By Order in Council of the 6th of February, 1901, section 34 of the regulations governing the disposal of coal lands, the property of the Crown, in Manitoba, the North-West Territories and British Columbia, established by Order in Council of 17th September, 1889, was rescinded and the following substituted therefor:—

> Lands containing anthracite coal may be sold at an upset price of $20 per acre, and coal other than anthracite at an upset price of $10 per acre, or may be sold by public competition if the Minster of the Interior shall so decide. Payment for land in cash or scrip shall be made when the application is granted, or payment may be made of one-quarter of the purchase price only and the balance in three equal annual instalments with interest at the rate of six per cent per annum upon the unpaid balances. Scrip, however, cannot be accepted unless payment is made in full at the time of the sale. If payment is not made accordingly the right to purchase will be cancelled.
>
> In addition to the above a royalty at such rate as may from time to time be

specified by Order in Council, will be levied and collected on the gross output of the mine, and it will be necessary for the person operating a mine to furnish the agent of Dominion lands with sworn returns monthly, or at such time as the Minister of the Interior may direct, accounting for the full quantity of coal mined, and pay the royalty thereon at the above rate.

Default in payment of such royalty, if continued for ten days after notice has been posted at the mine in respect of which it is demanded, or in the vicinity of such mine, by the agent of Dominion lands or by his direction, shall be followed by cancellation of the sale. In case of such cancellation no payments which may have been made on account of the purchase will be refunded.

The patent which may be issued for coal lands will be made subject to the payment of the above royalty, and provision will be made therein that the Minister of the Interior may declare the patent to be null and void for default in the payment of the royalty on the coal mined.

Any attempt to defraud the Crown by withholding any part of the revenue thus provided for, by making false statements of the amount taken out, shall be punished by cancellation of the sale of the land in respect of which fraud or false statements have been committed or made, and the Minister of the Interior may, for the same cause, declare the patent which may have been issued for the land to be null and void. In respect to the facts as to such fraud or false statements or non-payment of royalty the decision of the Minister of the Interior shall be final.

O.C. 19 May 1902

By Order in Council of the 19th of May, 1902, the regulations for the disposal of coal lands the property of the Dominion Government in Manitoba, the North-West Territories and British Columbia, established by the Order in Council of the 17th September, 1889, and amended by subsequent Orders in Council, were rescinded, and the following regulations substituted therefor:—

Regulations for the Disposal of Coal Lands, the Property of the Dominion Government in Manitoba, the North-West Territories and British Columbia

1. Lands containing anthracite coal may be sold at an upset price of $20 per acre, and coal other than anthracite at an upset price of $10 per acre or may be sold by public competition if the Minister of the Interior shall so decide. Payment for the land in cash or scrip shall be made when the application is granted or payment may be made of one-quarter of the purchase price only and the balance in three equal annual instalments with interest at the rate of five per cent per annum upon the unpaid balance. Scrip, however, cannot be accepted unless payment is made in full at the time of the sale. If payment is not made accordingly the right to purchase will be cancelled.

2. In addition to the above a royalty at the rate of ten cents per ton of 2,000 pounds will be levied and collected on the output of the mine, and it will be necessary for the person operating a mine to furnish the agent of Dominion lands with sworn returns monthly, or at such times as the Minister of the Interior may direct, accounting for the full quantity of coal mined, and pay the royalty thereon at the above rate.

3. Default in payment of such royalty, if continued for ten days after notice has been posted at the mine in respect of which it is demanded, or in the

vicinity of such mine, by the agent of Dominion lands or by his direction, shall be followed by cancellation of the sale. In case of such cancellation no payments which have been made on account of the purchase will be refunded.

4. The patent which may be issued for coal lands will be made subject to the payment of the above royalty, and provision will be made therein that the Minister of the Interior may declare the patent to be null and void for default in the payment of the royalty on the coal mined.

Any attempt to defraud the Crown by withholding any part of the revenue thus provided for, by making false statements of the amount taken out, shall be punished by cancellation of the sale of the land in respect of which fraud or false statements have been committed or made, and the Minister of the Interior may, for the same cause, declare the patent which may have been issued for the land to be null and void. In respect to the facts as to such fraud or false statements or non-payment of royalty, the decision of the Minister of the Interior shall be final.

5. Not more than three hundred and twenty acres shall be sold to one applicant.

6. When there is more than one applicant for the same coal location, the Minister of the Interior may invite competition between the several applicants, or offer the land for sale at public competition by tender or by auction, as he may think expedient, at the upset price of coal lands.

7. The boundaries beneath the surface of coal mining locations shall be vertical planes or lines in which their surface boundaries lie.

8. A fee of $5 shall accompany each application to purchase, which will be applied on account of payment for the land if the sale is carried out, and will be refunded if the land applied for is not available, but not otherwise.

Lands patented or entered, on which the coal mining rights have been reserved

9. a) Any person or persons desirous of obtaining permission to prospect for minerals on lands that have been patented or entered and on which the mining rights have been reserved, shall make application therefor to the Minister of the Interior.

b) Such application shall be in writing, defining clearly the area applied for, which area must not exceed 320 acres.

c) If the Minister of the Interior sees no objection to the application being granted, the applicant will upon payment of a fee of $10 be given permission to prospect upon furnishing the Minister with proof that he has complied with the provisions of the following subsection.

d) The applicant shall enter into a bond, with two sureties to the satisfaction of the Department of the Interior, to recompense the owner or occupant of the soil for damages that may be done to his lands.

e) If the proprietor of lands so entered upon shall seek damages, he shall, before the end of two months after the expiration of the permission given, make his claim in writing against the prospector detailing the particulars and amount of claim; and if the claim is not adjusted by agreement between the parties within one month after notice thereof as aforesaid, it shall be settled by arbitration in the manner prescribed in sections 13 and 14 of these regulations.

10. No permission to prospect shall authorize entry upon any buildings or the curtilage appertaining to any house, store, barn or building, or upon any garden, orchard, or ground reserved for ornament, or under cultivation by growing crops, and inclosed, except with the consent of the occupier or permission from the Minister of the Interior upon special application setting forth the circumstances under which the same is applied for, and on such terms as the case may require.

11. If, at the expiration of the period for which permission has been given to prospect on lands, it be desired to acquire the mining rights thereunder, they will be sold at the rate and on the terms prescribed by the mining regulations, less the price ruling for surface rights in the class in which the lands may be situated.

12. If the occupier of the lands has not received a patent therefor, the purchase money of the surface rights shall be paid to the Crown, and a patent of the surface rights will issue to the party who acquired the mining rights. The money so collected will either be refunded to the occupier of the land, when he is entitled to a patent therefor, or will be credited to him on account of payment for land.

13. When the party obtaining the mining rights to land cannot make any arrangement with the owner or his agent or the occupant thereof for the acquisition of the surface rights, it shall be lawful for him to give notice to the owner or his agent or the occupier to appoint an arbitrator to act with another arbitrator named by him, in order to award the amount of compensation to which the owner or occupant shall be entitled. The notice mentioned in this section shall be according to a form to be obtained upon application from the agent of Dominion lands for the district in which the lands in question lie, and shall, when practicable, be personally served on such owner, or his agent if known, or occupant; and after reasonable efforts have been made to effect personal service, without success, then such notice shall be served by leaving it at, or sending by registered letter to, the last place of abode of the owner, agent or occupant. Such notice shall be served, if the owner or agent resides in the district in which the land is situated, ten days, if out of the district and within the province, twenty days, and if out of the province, thirty days, before the expiration of the time limited in such notice. If the proprietor refuses or declines to appoint an arbitrator, or when for any other reason, no arbitrator is appointed by the proprietor in the time limited therefore in the notice provided for by this section, the agent of Dominion lands for the district in which the lands in question lie shall, on being satisfied by affidavit that such notice has come to the knowledge of such owner, agent or occupant, or that such owner, agent or occupant wilfully evades the service of such notice, or cannot be found, and that reasonable efforts have been made to effect such service, and that the notice was left at the last place of abode of such owner, agent or occupant, appoint an arbitrator on his behalf.

14. a) All the arbitrators appointed under the authority of these regulations shall be sworn before a justice of the peace to the impartial discharge of the duties assigned to them, and they shall forthwith proceed to estimate the reasonable damages which the owner or occupant of such lands according to their several interests therein shall sustain by reason of such prospecting and mining operations.

b) In estimating such damage, the arbitrators shall determine the value of the land irrespective of any enhancement thereof from the existence of minerals therein.

c) In case such arbitrators cannot agree, they may select a third arbitrator, and when the two arbitrators cannot agree upon a third arbitrator the agent of Dominion lands for the district in which the lands in question lie shall select such third arbitrator.

d) The award of any two such arbitrators made in writing shall be final, and shall be filed with the agent of Dominion lands for the district in which the lands lie.

O.C. 4 March 1907

By Order in Council of the 4th of March, 1907, the regulations which are now in force for the disposal of coal lands, the property of the Dominion in the province of Manitoba, the Northwest Territories (including the provinces of Saskatchewan and Alberta), and in the province of British Columbia, were suspended from operation and all applications thereafter received by the Minister with respect to such coal lands are to be dealt with under the provisions of new regulations to be established in lieu of the regulations now in force.

Abandonment of Alienation: 1907 to 1930

O.C. 9 May 1907

By Order in Council of the 9th of May, 1907, the following regulations for the disposal of coal mining rights, the property of the Crown in the provinces of Manitoba, Saskatchewan and Alberta, the Yukon Territory, the Northwest Territories, the railway belt in the province of British Columbia, and within the tract containing three and one-half (3½) million acres of land acquired by the Dominion Government from the said province of British Columbia, under the provisions of chapter 59 of the *Revised Statutes of Canada*, 1906, were made.

Regulations

1. The coal mining rights which are the property of the Crown in the provinces of Manitoba, Saskatchewan and Alberta, the Yukon Territory, the Northwest Territories, the railway belt in the province of British Columbia, and within the tract containing three and one-half million acres of land acquired by the Dominion Government from the province of British Columbia under chapter 59 of the *Revised Statutes of Canada*, 1906, may be leased for a term of twenty-one years at an annual rental of $1.00 per acre, payable yearly in advance.

2. No applicant shall be allowed to lease more than an area of 2,560 acres.

3. The tract applied for, if situated in surveyed territory, shall consist of sections or legal subdivisions of sections, but the several parcels comprising the tract must be contiguous, and the whole area applied for shall not exceed four miles in its greatest dimension. In unsurveyed territory, if the tract applied for is so situated as to admit of a definite description by sections and legal subdivisions of sections being furnished, an application for coal mining rights may be considered under the provisions of this section.

4. Applications for such coal mining rights shall be filed with the agent of Dominion lands for the district in which the rights applied for are situated, or with a subagent for such district for transmission by the agent to the Department of the Interior, but priority of application shall be based upon

the date of the receipt of such application in the office of the agent of Dominion lands for the district. The application shall contain a description by section, part of section, township and range of the tract applied for.

5. If the coal mining rights which an applicant desires to lease are situated in unsurveyed territory, application therefor shall be filed with the agent of Dominion lands for the district in which the rights applied for are situated or with a subagent for such district for transmission by the agent to the Department of the Interior, and the applicant shall have the option in making his application, to comply with the requirements of either of the following sections numbered 6 and 7.

6. The application shall contain a description by metes and bounds of the tract applied for, and shall be accompanied by a plan showing the position of such tract in its relation to some prominent topographical feature or other known point. The plan shall contain sufficient data to admit of the position of the tract applied for being definitely shown in the records of the department. Such tract must be rectangular in form, except where a boundary of a previously located tract is adopted as common to both locations, the length not to exceed four times the breadth and the boundaries thereof shall be due north and south and due east and west lines.

The application shall be accompanied by evidence, supported by affidavit, to show that the following requirements have been fully complied with:—

a) That the tract applied for has been duly defined on the ground by planting a wooden post at least four inches square, and standing not less than four feet above the ground, at one angle or corner of the said tract;

b) Upon such post shall be inscribed the name of the applicant, the date of the location, the angle represented by the post, and the length and direction of the boundaries of the tract applied for. Thus: A. B.'s coal mining location, N.E. corner (meaning northeast corner), this claim extends three miles west and one mile south from this post, or as the case may be;

c) That a written or printed notice has been posted on a conspicuous part of the tract applied for, setting out the intention of the applicant to apply, within thirty days from the date of such notice, for a lease of the coal mining rights under the said tract.

7. If the applicant desires to follow as nearly as may be a coal seam which he may have discovered, instead of following the procedure set out in the preceding paragraph, application may be made for a lease of the coal mining rights under a tract along such seam, the total length of the tract not to exceed 21,120 feet, and the length not to exceed four times the breadth. All angles shall be right angles except in cases where a boundary line of a previously located tract is adopted as common to both locations, but the boundaries need not necessarily be due north and south and due east and west lines.

a) The tract shall be marked by two wooden posts at least four inches square and standing not less than four feet above the ground, placed as nearly as possible on the line of the seam, and these posts shall be numbered 1 and 2. The distance between posts No. 1 and 2 shall not exceed 21,120 feet and upon the posts shall be inscribed the name of the applicant and the date of the location. Upon post No. 1 there shall be written in addition to the foregoing "Initial Post," the approximate compass bearing of post No. 2, and a statement of the number of feet lying to the right and to the left of the line between post No. 1 and post No. 2. Thus: Initial post, direction of post No. 2 is.....feet lie to the right and.....feet to the left of the line between....post No.1 and post No. 2.

When a tract which an applicant desires to lease has been located he shall immediately mark the line between post No. 1 and post No. 2 so that it can be distinctly seen, in a timbered locality by blazing trees and cutting underbrush, and in a locality where there is neither timber nor underbrush he shall set posts of the above dimensions or erect mounds of earth or rock not less than two feet high and two feet in diameter at the base in such a manner that the line may be distinctly seen.

b) All the particulars required to be inscribed on posts No. 1 and No. 2 shall be set out in the application and shall be accompanied by a plan showing the position of the tract in its relation to some prominent topographical feature or other known point, such plan to contain sufficient data to admit of the tract being shown definitely on the records of the department.

c) A written or printed notice shall be posted on a conspicuous part of the tract applied for, setting out the intention of the applicant to apply within thirty days from the date of such notice for a lease of the coal mining rights under the said tract.

d) The application shall be accompanied by evidence, supported by affidavit, in due form, to show that the above requirements of the regulations have been fully complied with.

[Examples of various modes of laying out coal locations under section 7 of these regulations.]

8. Application for a lease of the local mining rights under lands situated in unsurveyed territory shall be filed with the agent of Dominion lands for the district in which the tract applied for is situated, or with the subagent for such district, within thirty days from the date upon which the tract applied for was located, otherwise it will not be considered.

Where two or more persons lay claim to the same location, or to portions of the same locations, the right to acquire a lease shall be in him who can prove to the satisfaction of the Minister that he was the first to take possession of the tract in dispute by demarcation in the manner prescribed in these regulations, and that he made application for a lease thereof within the specified time.

9. As soon as a survey of a township has been confirmed, all coal mining leaseholds embracing any portion of such township so surveyed and confirmed shall be made to conform to the Dominion lands system of survey, by the substitution of a new lease describing by sections, legal subdivisions of sections, or regular portions of legal subdivisions, as nearly as may be, the tract embraced in the leasehold, in so far as the township so surveyed is concerned.

The balance of the leasehold which may still be in unsurveyed territory shall continue to be described as in the lease originally issued, until such portion is included in a confirmed survey.

10. As soon as the survey of a township has been confirmed, all coal mining leaseholds embracing any portion of the township so surveyed and confirmed shall be subject to the withdrawal forthwith from the lease, without

compensation to the lessees, of any portions which in accordance with such confirmed survey are found to be the property of the Hudson's Bay Company.

11. The lease shall include the coal mining rights only, but the lessee may, upon application, be permitted to purchase at the rate of $10.00 an acre whatever area of the available surface rights thereof the Minister may consider necessary for the efficient and economical working of the coal mining rights granted under such lease.

12. The lessee shall commence active operations on his leasehold within one year from the date upon which he may be notified by the proper officer of the Department of the Interior to do so, and shall produce from such operations the quantity of coal specified in the said notification. Such notification shall not be given until the expiration of at least one year from the date of the lease, and shall set out the quantity of coal which the lessee is required to mine and produce at the pit's mouth ready for shipment, which quantity, however, may be increased by notification from time to time, but in no case shall the maximum quantity required to be mined exceed ten tons per annum for each acre leased. In case operations are not commenced within the time specified in the notice, or if the required quantity of coal is not mined during each year, the lease shall be subject to cancellation in the discretion of the Minister.

13. The lessee shall not assign, transfer or sublet the rights described in his lease, or any part thereof, without the consent in writing of the Minister being first had and obtained.

14. The boundaries beneath the surface of coal mining locations shall be the vertical planes or lines in which their surface boundaries lie.

15. All leases of coal mining rights issued under these regulations shall be subject to the provision that actual settlers shall be entitled to buy at the pit's mouth whatever coal they may require for their own use, but not for barter or sale, at a price not to exceed $1.75 per ton, and the lease issued for coal rights shall be made subject to such provision.

16. A fee of $5.00 shall accompany each application for a lease, which will be refunded if the rights applied for are not available, but not otherwise.

17. The lease shall be in such form as may be determined by the Minister of the Interior, in accordance with the provisions of these regulations.

18. In addition to the rent, a royalty, at the rate of five cents per ton of 2,000 pounds, will be levied and collected on the merchantable output of the mine, and it will be necessary for the person operating a mine to furnish the agent of Dominion lands with sworn returns monthly, or at such times as the Minister of the Interior may direct, accounting for the full quantity of merchantable coal mined, and pay the royalty thereon at the above rate.

19. Every lessee of coal mining rights which are not being operated shall furnish the agent of Dominion lands with a sworn statement to that effect at least once in each year.

20. Default in payment of the royalty, or in furnishing the returns, if continued for thirty days after notice has been posted at the mine, or conspicuously on the property in respect of which it is demanded, by the agent of Dominion lands or by his direction, may be followed by cancellation of the lease, or the imposition of a fine in the discretion of the Minister of the Interior.

21. Any attempt to defraud the Crown by withholding any part of the revenue thus provided for, by making false statements of the amount taken out, may, in the discretion of the Minister, be punished by fine, or by cancellation of the lease in respect of which fraud or false statement has been committed or made. In respect to the facts as to such fraud or false statements or non-payment of royalty or failure to furnish returns, the decision of the Minister of the Interior shall be final.

22. When the lessee of the coal mining rights of land cannot make an arrangement with the owner of the surface rights, or his agent, or the occupant thereof, for the acquisition of such portion of the surface rights as may be necessary for the efficient and economical operation of the rights acquired under his lease, the area of the surface to be so acquired, its exact position, or the amount of the compensation to be awarded, he may apply to the Minister of the Interior for permission to submit the matter in dispute to arbitration, and upon receiving such permission in writing it shall be lawful for him to give notice to the owner, or his agent, or the occupant, to appoint an arbitrator to act with another arbitrator named by him, in order to award the amount of compensation to which the owner or occupant shall be entitled. The notice mentioned in this section shall be according to a form to be obtained upon application to the agent of Dominion lands for the district in which the lands in question lie, and shall, when practicable, be personally served on such owner or his agent if known, or occupant; and after reasonable efforts have been made to effect personal service without success, then such notice shall be served by leaving it at or sending it by registered mail to the last known place of abode of the owner, agent or occupant, and by posting a copy in the office of the agent of Dominion lands for the district in which the land in question is situated. Such notice shall be served if the owner or agent resides in the district in which the land is situated, ten days, if out of the district and within the province or territory, twenty days, and if out of the province of territory, thirty days, before the expiration of the time limited in such notice. If the owner or agent or occupant refuses or declines to appoint an arbitrator, or when, for any other reason, no arbitrator is appointed in the time limited therefor in the notice provided by this section, the agent of Dominion lands for the district in which the lands in question lie shall, on being satisfied by affidavit that such notice has come to the knowledge of such owner, agent or occupant, or that such owner, agent or occupant, wilfully evades the service of such notice, or cannot be found, and that reasonable efforts have been made to effect such service, and that the notice was left at the last place of abode of such owner, agent or occupant, appoint an arbitrator on his behalf.

23. All the arbitrators appointed under the authority of these regulations shall be sworn before a justice of the peace to the impartial discharge of the duties assigned to them, and after due consideration of the rights of the owner and the needs of the lessee, they shall decide as to the particular portion of the surface rights which the latter may reasonably require for the efficient and economical operation of the rights and privileges granted him under his lease and the area thereof, and they shall proceed to make a valuation of such portion.

24. In making such valuation the arbitrators shall determine the value of the land irrespective of any enhancement thereof from the existence of minerals thereunder.

25. In case the arbitrators cannot agree they may elect a third arbitrator,

and when the two arbitrators cannot agree upon the third arbitrator, the agent of Dominion lands for the district in which the lands in question lie shall select such third arbitrator.

26. The award of any two such arbitrators made in writing shall be final, and shall be filed with the agent of Dominion lands for the district in which the lands lie.

27. The arbitrators shall be entitled to be paid a per diem allowance of $5.00 together with necessary travelling and living expenses while engaged in the arbitration, and the costs of such arbitration shall be borne in equal parts by the lessee and the owner of the surface rights.

S.C. 1908 7-8 Edward VII c.20 s.37

37. Lands containing salt, petroleum, natural gas, coal, gold, silver, copper, iron or other minerals may be sold or leased under regulations made by the Governor in Council and these regulations may provide for the disposal of mining rights underneath lands acquired or held as agricultural, grazing or hay lands, or any other lands held as to the surface only, but provision shall be made for the protection and compensation of the holders of the surface rights, in so far as they may be affected under these regulations.

O.C. 31 January 1910

By Order in Council of the 31st of January, 1910, the regulations governing the sale of coal mining lands, the property of the Crown, established by the Order in Council of 19th May, 1902, and subsequent amending Orders, were amended and it was ordered that royalty at the rate of ten cents per ton of 2,000 pounds be charged on the merchantable output of the mines only.

It was further ordered that in the case of companies operating coal mines acquired from the Crown under the provisions of the above mentioned regulations no royalty be charged upon the coal taken from any mine, which is used by the operator of such mine for the purpose of generating steam with which to operate the mine and the appliances necessary in connection with such operation. The sworn returns which it is necessary under the regulations for the operator to furnish, shall contain a detailed statement showing the total number of tons mined; the number of tons thereof which are of an unmerchantable character and are not sold, the number of tons used by the operator for the purpose of generating steam with which to operate the mine itself and the appliances in connection therewith.

O.C. 12 August 1911 (1793)

Regulations for the disposal of coal mining rights which are the property of the Crown in the Provinces of Manitoba, Saskatchewan and Alberta, the Yukon Territory, the Northwest Territories, the Railway Belt in the Province of British Columbia, and within the tract containing three and one half (3½) million acres acquired by the Dominion Government from the Province of British Columbia and referred to in sub-section b) of section 3 of the *Dominion Lands Act*.

"Minister" shall mean the Minister of the Interior. "Surveyed land" for the purpose of these regulations shall mean a section or a part of a section one of the boundaries of which has been defined by a surveyed line, and one of the corners of which has been marked on the ground by a survey post or mound, and the official plan of which, showing such survey and marking, has been approved by the Surveyor General.

"Coal mining location" shall mean a tract of land, containing coal, located or staked in accordance with these regulations.

"Locator" shall mean the person who locates or stakes a coal mining location, in the manner prescribed in these regulations.

"Year" shall mean a period of twelve consecutive calendar months.

1. The coal mining rights, which are the property of the Crown in the provinces of Manitoba, Saskatchewan and Alberta, the Yukon Territory, the Northwest Territories, the Railway Belt in the Province of British Columbia, and within the tract containing three and one half million acres of land acquired by the Dominion Government from the province of British Columbia, and referred to in subsection b) of section 3 of the *Dominion Lands Act*, may be leased by the Minister at an annual rental of $1 per acre, payable yearly in advance.

Provided, however, that these regulations shall not apply to school lands or to any land comprised within the Rocky Mountains Park of Canada, or with Dominion Forest Reserves, or to land within the Jasper Forest Park of Canada, or other reserves made by Parliament, or by order of the Governor in Council, or to land within any incorporated city, town or village, unless otherwise specially provided by the Governor in Council.

The term of the lease shall be twenty-one years, renewable for a further term of twenty-one years, provided the lessee furnishes evidence satisfactory to the Minister, to show that during the term of the lease he has complied fully with the conditions of such lease, and with the provisions of the regulations regarding the disposal and operation of coal mining rights which may have been made from time to time by the Governor in Council.

2. The maximum area of a coal mining location shall be 2,560 acres, and no person shall be allowed to locate more than one location:

Provided that a person who has been granted a lease for a location, and who subsequently abandons or assigns the same, may, after the expiration of twelve months from the date of the said lease, be permitted to secure another location:

Provided further, however, that such right of relocation shall not be granted unless all payments on account of rent, royalty, or other liability to the Department, due by such person, have been fully made, up to the date of the registration by the Department of the assignment of his right to such lease, or up to the date upon which the notice of his abandonment of the same was received by the Department.

10. The lessee shall commence active operations on his leasehold within one year from the date upon which he may be notified by the proper officer of the Department of the Interior to do so, and shall produce from such operations the quantity of coal specified in the said notification. Such notification shall not be given until the expiration of at least one year from the date of the lease, and shall set out the quantity of coal which the lessee is required to mine and produce at the pit's mouth ready for shipment, which quantity, however, may be increased from time to time, upon thirty days' notice to that effect being given to the lessee, but in no case shall the maximum quantity required to be mined exceed ten tons per annum for each acre leased. In case operations are not commenced within the time specified in the notice, or if the required quantity of coal is not mined during each year, the lease shall be subject to cancellation in the discretion of the Minister.

11. The lessee shall not assign, transfer or sublet the rights described in his lease, or any part thereof, without the consent in writing of the Minister being first had and obtained.

12. The boundaries beneath the surface of coal mining locations shall be the vertical planes or lines in which their surface boundaries lie.

13. All leases of coal mining rights issued under these regulations shall be subject to the provision that actual settlers shall be entitled to buy at the pit's mouth whatever coal they may require for their own use, but not for barter or sale, at a price not to exceed $1.75 per ton, and the lease issued for coal rights shall be made subject to such provision.

16. If the application is granted, the locator shall be notified in writing, and he shall be given a period of thirty days from the date of the receipt of his application within which to pay to the Agent of Dominion Lands the full amount of the rental for the first year of the term of the lease, at the rate of one dollar ($1) per acre, and upon the receipt of such rental the lease shall be issued and shall bear date from the day upon which the application was granted. If the rental is not paid within the time specified, the application shall absolutely lapse, and the rights applied for shall become available for other disposition.

17. If during the term of the lease the lessee shall fail to pay the rental in advance for each subsequent year at the rate of one dollar ($1) an acre per annum, within thirty days after the date upon which the same became due, the lease shall be subject to cancellation in the discretion of the Minister and to the immediate forfeiture of all the rights granted thereunder.

18. If the location is situated in surveyed territory, and the surface rights thereof have been patented or have been disposed of by the Crown under any Act or regulation which contemplates the issue of patent, or if the surface rights have been disposed of temporarily under a terminable grant, the Minister may, in consideration of the expenditure to be incurred by the locator on the tract leased, in prospecting operations, and upon application to that effect, in the proper form, being filed with the Agent, or Sub-agent of the district in which the location is situated, waive the payment of the rental for the first and second years of the term of the lease, subject to the following conditions:

a) Each such application shall be accompanied by a fee of one hundred dollars ($100) which amount will be deducted from the expenditure which the locator shall be required to incur in prospecting operations on his leasehold during the first year of the term of his lease. Such fee shall be refunded to the locator if the application is not granted.

b) Subject to the deduction of the one hundred dollar fee, as provided in the foregoing subsection a), the locator shall expend in actual prospecting operations upon his leasehold, by recognized methods, during each of the first and second years of the term of his lease, the sum of not less than one dollar ($1) for each acre of the total area of his location, and shall, prior to the termination of each of the said two years, submit evidence, satisfactory to the Agent, supported by affidavit, to show that he has incurred the required expenditure in actual prospecting operations, by recognized methods, on the tract covered by his location. If the lessee fails to submit such evidence in the manner prescribed, the lease shall be subject to cancellation in the discretion of the Minister and to the immediate forfeiture of all rights granted thereunder.

19. In addition to the rent, a royalty at the rate of five cents per ton of two thousand pounds, shall be levied and collected on the merchantable output of the mine, and such royalty shall be payable monthly to the Agent from the date upon which operations may be commenced. The person operating a mine shall furnish the Agent of Dominion Lands with sworn returns monthly, or at such times as the Minister of the Interior may direct, accounting for the full quantity of merchantable coal mined.

20. Every lessee of coal mining rights which are not being operated shall furnish the Agent of Dominion Lands with a sworn statement to that effect at least once in each year.

21. Default in payment of the royalty, or in furnishing the returns, if continued for thirty days after notice has been posted at the mine, or conspicuously on the property in respect of which it is demanded by the Agent of Dominion Lands, or by his direction, may be followed by cancellation of this lease, or the imposition of a fine in the discretion of the Minister of the Interior.

22. Any attempt to defraud the Crown by withholding any part of the revenue thus provided for, by making false statements of the amount taken out, may in the discretion of the Minister, be punished by fine, or by the cancellation of the lease in respect of which fraud or false statement has been committed or made. In respect to the facts as to such fraud or false statements or non-payment of royalty or failure to furnish returns, the decision of the Minister of the Interior shall be final.

23. An Agent of the Dominion Lands or any other officer or person so designated by the Minister, shall have the right to enter upon any land comprised within a coal mining location, or the workings therein; to examine all records and books of account of the lessee or operator of such mining location, and to make such other examination as may be deemed necessary in order to ascertain whether or not the terms of the lease for such location are being duly complied with.

24. The lease shall include the coal mining rights only, but the lessee may, upon application, be permitted to purchase at the rate of $10 an acre whatever area of the available surface rights thereof the Minister may consider necessary for the efficient and economical working of the coal mining rights granted under such lease.

25. In case the surface rights of a coal mining location are covered by a timber license, grazing or petroleum lease, mining claim or other form of terminable grant which does not contemplate the issue of patent, the lease shall not authorize entry thereon, except the permission of the Minister is first had and obtained, and such permission shall be given subject to such conditions for the protection of the rights of such lessee or licensee as it may be considered necessary to impose.

26. In case the surface rights of a coal mining location have been patented, or have been disposed of by the Crown under any Act or regulation which contemplates the earning of patent for such surface rights, and the lessee of the coal mining rights cannot make an arrangement with the owner of the surface rights, or his agent, or the occupant thereof, for entry upon the location, or for the acquisition of such portion of the surface rights as may be necessary for the efficient and economical operation of the rights acquired under his lease, he may, provided the mineral rights in the land affected with access thereto and the right to use and occupy such portion of the said

land as may be necessary for the effectual working of the minerals therein have been reserved to the Crown in the original grant of the surface rights, apply to the Minister for permission to submit the matter in dispute to arbitration. Upon receiving such permission in writing it shall be lawful for the lessee to give notice to the owner, or his agent, or the occupant, to appoint an arbitrator within a period of sixty days from the date of such notice, to act with another arbitrator named by the lessee, in order to determine what portion of the surface rights the lessee may reasonably acquire:—

a) For the efficient and economical operation of the rights and privileges granted him under his lease,

b) The exact position thereof, and,

c) The amount of compensation to which the owner or occupant shall be entitled.

O.C.16 January 1915 (103)

Whereas by Order in Council, dated 31st May, 1901, provision is made that until further ordered, the royalty on coal mined from lands acquired under the provisions of the regulations established by Order in Council, dated 6th February, 1901, governing the disposal of coal mining lands, the property of the Crown in Manitoba, the North West Territories and British Columbia, shall be fixed at the rate of 10 cents per ton of 2,000 pounds;

And whereas in view of the conditions under which coal mining operations are carried on, it is deemed expedient to reduce the said royalty,—

Therefore, His Royal Highness the Governor General in Council is pleased to order and it is hereby ordered as follows:—

The royalty on coal at the rate of 10 cents per ton of 2,000 pounds, imposed by Order in Council, dated 31st May, 1901, is reduced to 7 cents per ton of 2,000 pounds of merchantable coal mined, such reduction to take effect on the first day of January, 1915.

O.C. 21 September 1918 (2303)

Whereas section 1 of the Coal Mining Regulations, established under authority of section 37, chapter 20 of 7-8 Edward VII, by Order in Council dated the 20th of April, 1910, and amended by subsequent Orders in Council, provides that the term of the lease shall be twenty-one years, renewable for a further term of twenty-one years, provided the lessee furnishes evidence satisfactory to the Minister of the Interior to show that during the term of the lease he has complied with the conditions of such lease and with the provisions of the regulations regarding the disposal and operation of coal mining rights which may have been made from time to time by the Governor in Council;

And whereas the initial expenditure involved in the development of a coal mine and in the installation of the machinery and equipment necessary for its operation would appear to justify the continuance of the lease for a greater period than that specified in the regulations;

Therefore, His Excellency the Governor General in Council, on the recommendation of the Acting Minister of the Interior, is pleased to order that section 1 of the above-mentioned regulations shall be and the same is hereby rescinded and the following is substituted therefor and made to apply to all coal mining leases already issued under the provisions of the regulations:

> The term of the lease shall be twenty-one years, renewable for a further term of twenty-one years, provided the lessee furnishes evidence satisfactory to the Minister to show that during the term of the lease, he has complied fully with the conditions of such lease and with the provisions of the regulations regarding the disposal and operation of coal mining rights which may have been made from time to time by the Governor in Council, and subject to renewal for additional periods of twenty-one years on such terms and conditions as may be prescribed by the Governor in Council.

And whereas Section 24 of the same regulation provides that the lease shall include the coal mining rights only, but the lessee may, upon application, be permitted to purchase at the rate of $10 an acre, whatever area of the available surface rights thereof the Minister may consider necessary for the efficient and economical working of the coal mining rights granted under such lease;

And whereas section 8 of chapter 27 of 4-5 George V, being an Act to amend the *Dominion Lands Act*, provides that lands containing coal and other minerals may be leased under regulations made by the Governor in Council, but provision is no longer made for the sale of lands under such regulations;

And whereas no regulations exist for the leasing of lands for coal mining purposes;

Therefore, His Excellency in Council is further pleased to order that Section 24 of the Coal Mining Regulations shall be and the same is hereby rescinded, and the following is substituted therefor:

> The lease shall in all cases include the coal mining rights only, the property of the Crown, but the lessee may, upon application, be granted a yearly lease at a rental of $1 per acre per annum, payable yearly in advance, of whatever area of the available surface rights of the tract described in the coal mining lease, the Minister may consider necessary for the efficient and economical working of the rights granted under such lease.

And whereas representations have been made to the Department of the Interior that coal mining lessees frequently adopt unskilful and improper methods in the opening up and operation of coal seams on the locations leased to them under the regulations, which methods are not in the interests of economy and production;

Therefore, in order that supervision may be exercised over the methods adopted for the conservation and recovery of coal, His Excellency in Council is further pleased to order and it is hereby ordered that the following provision be inserted in the said Coal Mining Regulations:—

> The lessee shall, before opening any mine on the lands described in the lease, and before extracting any coal therefrom, submit to the Minister plans and specifications showing in detail the manner in which it is proposed to open up, develop and operate such mine, and if the location contains more than one seam of coal, detailed information shall be furnished as to the particular seam which it is proposed to develop. No work shall be commenced for the recovery of coal, and no coal shall be extracted until such plans and specifications have been approved by the proper officer of the Department. The procedure to be adopted in opening up and operating a mine on the lands leased, as well as the particular seam of coal which shall first be operated shall at all times be in accordance with the

> provisions of regulations duly approved by the Minister, and failure to comply with the requirements of such regulations shall render the lease subject to cancellation in the discretion of the Minister.

And whereas coal mining lessees in their mining operations frequently create centres of population in isolated districts where educational facilities for persons of school age have not been established;

Therefore, His Excellency in Council is further pleased to order and it is hereby ordered that the following provision for the establishment of such facilities be inserted in the said Coal Mining Regulations;

> Whenever the coal mining lessee, by reason of his mining operations on the lands described in the lease, creates a centre of population comprising persons who, under the provision of the regulations of the province in which the lands are situated, are considered to be of school age, and in case a school district is organized under the regulations of the province, owing to such centre of population having been so created, and including it, the lessee shall erect and maintain, during the currency of the lease, a school house for the accommodation of all such persons of school age, in accordance with the regulations of the Provincial Department of Education, and shall engage and pay a teacher or teachers, properly qualified and approved by the Provincial Department of Education.

O.C. 6 October 1919 (2044)

Whereas Regulations for the disposal of coal mining rights the property of the Crown in the Provinces of Manitoba, Saskatchewan and Alberta, the Yukon Territory, the Northwest Territories, and in portions of the Province of British Columbia, were established by Order in Council dated the 20th April, 1919, and amended by subsequent Orders in Council;

And whereas the Minister of the Interior reports that representations have been made to the Department of the Interior that there is a very large and valuable deposit of high grade coal on Dominion lands near the junction of the Muskeg and Smoky Rivers in unsurveyed territory in the Province of Alberta, situated about seventy miles distant from railway communication;

And whereas the coal mining rights already disposed of by the Crown under the provisions of the regulations, and those available coal mining rights with which railway communication has already been established in the said Province appear to be sufficient to supply all present requirements, and as it would appear to be in the public interest that a coal reservation should be created in the northern portion of the said Province,—

Therefore the Deputy Governor General in Council, on the recommendation of the Minister of the Interior, is pleased to order that the coal mining rights which are the property of the Crown in Township 55, 56, 57, 58 and 59, Ranges 7, 8 and 9, West of the 6th Initial Meridian, shall be and the same are hereby withdrawn from disposal under the provisions of the coal mining regulations above referred to.

O.C. 23 March 1921 (890)

Whereas by an Order in Council dated the 21st September, 1918, the following provision was made:—

> Whenever the coal mining lessee, by reason of his mining operations on the lands described in the lease, creates a centre of population comprising persons who, under the provisions of the regulations of the province in

> which the lands are situated are considered to be of school age, and in case a school district is organized under the regulations of the Province, owing to such centre of population having been so created and including it, the lessee shall erect and maintain during the currency of the lease, a school house for the accommodation of all such persons of school age, in accordance with the regulations of the Provincial Department of Education, and shall engage and pay a teacher, or teachers, properly qualified and approved by the Provincial Department of Education.

And whereas on the 23rd November, 1918, an agreement was entered into between the Government of the Province of Alberta and the Government of the Dominion of Canada, respecting Dominion Parks in that province, in which it was provided that in all coal mining leases issued by the Federal Government throughout the Province of Alberta, either surface or under rights, a clause shall be inserted making the lessee responsible for the payment of school taxes imposed by the province, also a clause requiring coal mining lessees, when a school district is organized in the vicinity of the mine, to erect and maintain, during the currency of the lease, a schoolhouse satisfactory to the Minister of Education for the Province on a site to be provided by the mine owner;

Therefore His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior and in view of the terms of the above mentioned agreement, is pleased to order and it is hereby ordered as follows:—

The provisions contained in the Order in Council of the 21st September, 1918, above quoted, is hereby rescinded, and the following provision, which is in accordance with the agreement with the Province of Alberta, is hereby substituted therefor:—

> That the lessee will pay and discharge all school taxes imposed by or on behalf of the Government of the Province of Alberta now charged or hereafter to be charged upon the said demised premises as occupant or upon the said lessee or occupier in respect thereof or payable by either in respect thereof.

Whenever the coal mining lessee by reason of his mining operations on the lands described in the lease creates a centre of population comprising persons who, under the provisions of the regulations of the Province in which the lands are situated are considered to be of school age and in case a school district is organized under the regulations of the Province owing to such centre of population having been so created and including it, the lessee shall erect and maintain during the currency of the lease a school house for the accommodation of all such persons of school age, satisfactory to the Minister of Education for the Province on a site provided by the mine-owner satisfactory to the said Minister.

O.C. 8 March 1923 (423)

Whereas by an Order in Council dated the 6th October, 1919 (P.C. 2044) provision was made that the coal mining rights, the property of the Crown, in townships 55, 56, 57, 58 and 59, in ranges 7, 8 and 9 west of the 6th initial meridian, shall be withdrawn from disposal under the provisions of the Coal Mining Regulations established by Order in Council of the 20th April, 1910, and the amendments thereto, and shall form a coal reservation in the northern portion of the Province of Alberta;

And whereas by an Order in Council dated the 18th January, 1923 (P.C. 91), provision was made that section 17 of the Coal Mining Regulations above referred to, be amended by adding the following thereto:—

> Provided that if at any time after a lease has been cancelled through failure to pay the prescribed rental, the person in whose favour the lease stood recorded on the date of cancellation applies to the mining recorder for the district for reinstatement in the rights which he formerly had to such lease, and tenders the full amount of the rental which should have been paid to maintain the lease in good standing, with interest, such person may be reinstated in the right which he formerly had to the location sought to be reacquired, or to any portion thereof which may still be available.

And whereas the reservation created by Order in Council dated the 6th October, 1919, was for the public benefit, and should therefore extend as far as possible to all the lands within the townships described in the said Order;

Therefor, His Excellency the Governor-General-in-Council, on the recommendation of the Minister of the Interior, is pleased to order that the provisions of the Order in Council of the 18th January, 1923 (P.C. 91) above quoted, providing for reinstatement, shall not apply to coal mining leases comprising any portion of townships 55, 56, 57, 58 and 59, in ranges 7, 8 and 9, west of the 6th initial meridian, which have in the past been, or which may in the future be cancelled in the records of the Department of the Interior, owing to failure to comply fully with any of the provisions of the regulations under which such leases may have been granted.

O.C. 1 February 1927 (164)

His Excellency the Governor General in Council on the recommendation of the Minister of the Interior, is pleased to order that the regulations for the disposal of coal mining rights, the property of the Crown, in the Provinces of Manitoba, Saskatchewan, Alberta, the Yukon Territory, the Northwest Territories, and a portion of the Province of British Columbia, approved by Order in Council dated the 20th April, 1910, and amended by subsequent Orders in Council, be and they are hereby further amended by adding to Section 19 thereof, the following provision:—

> Should the Minister have reason to believe that operations on any coal mining location acquired under these regulations are not being conducted in strict conformity with the terms of the lease and the conditions of the regulations, or that such operations are being so conducted as to expose others to the risk of damage or loss, he may authorize a mining inspector or other person named by him to enter upon the mine, and to remain for such period or periods as the Minister may deem necessary, for the purpose of enforcing compliance with such terms and conditions and the remedy of existing default; and the Minister may charge and may collect from the recorded owner of such location the expenses incurred in connection with the supervision so authorized by the said Minister. Failure on the part of the recorded owner of the location to make payment in full of the expenses so incurred shall render the lease subject to immediate cancellation, in the discretion of the Minister, at the expiration of a period of thirty days after the date upon which notice of such indebtedness was sent to the last known place of address of such recorded owner.

Coal Mining for Domestic Purposes

O.C. 11 November 1895

By Order in Council of the 11th of November, 1895, the Minister of the Interior was authorized to issue yearly permits to settlers in Manitoba, the North-west Territories and British Columbia to mine a certain quantity of coal, for domestic purposes only, upon payment in advance of a royalty of twenty cents per ton for anthracite coal, fifteen cents per ton for bituminous coal, and ten cents per ton for lignite coal, the regulation to come into force on and after the first day of January, 1896.

O.C. 9 February 1897

Regulations for the issue of permits to mine coal on Dominion lands, for domestic purposes only, approved by His Excellency the Governor General in Council on the 9th day of February, 1897.

1. The following regulations apply to coal mined on Dominion lands for domestic purposes only:—

2. The frontage of a coal mining location shall not exceed three chains in width measured in direct distance, and the length thereof shall not exceed ten chains, nor shall it be less than five chains, except where the ground is covered by a prior location. Its boundaries beneath the surface shall be the vertical planes in which its surface boundaries lie.

3. The location shall be marked on the ground by placing at each of its four corners a wooden post not less than four inches square, driven not less than eighteen inches into the ground and showing that length above it. If the ground is too rocky to admit of so driving such posts, the claimant shall build about each of them, to support it and keep it in place, a cairn or mound of stones, at least three feet in diameter at the base, and eighteen inches high. If the location be timbered, a line shall be run and well blazed joining the said posts. If it be not timbered, and the ground is of such a nature than any one post cannot be seen from the ends of either of the lines which form the angle at which the said post is placed, posts flattened on two sides (such flattened portions facing the directions of the line) shall be planted or mounded along the side lines wherever necessary so that no difficulty may be experience by a subsequent prospector or explorer discovering or following the boundaries of any location. If the location be laid out with its boundaries due north and south and east and west, then the claimant shall mark on the post at the north-east angle of the location, legibly with a cutting instrument or with coloured chalk, his name in full, the date of such marking, and the letters M.L. No. 1 to indicate that the post is mining location post No.1. Proceeding next to the south-easterly angle of the location, he shall mark the post planted there with the letters M.L. No.2, and his initials; next to the south-westerly angle of the location the post planted at which he shall mark the letters M.L. No.3, and his initials; and lastly to the north-westerly angle of the location, the post planted at which he shall mark with the letters M.L. No. 4, and his initials. If the location be laid by other than due north and south and east and west lines, the first mentioned post shall be the one at the northerly angle: the second the one at the easterly angle; the third the one at the southerly angle, and the fourth the one at the westerly angle; furthermore on the face of each post, which face shall in the planting thereof be turned towards the post which next follows it in the order in which they are named and numbered, there shall be marked in figures the number of yards distant to the next following post. If

means of measurement are not available, the distance to be so marked on each of the posts may be that estimated. If the corner of a location falls in a ravine, bed of a stream, or any other situation where the character of the locality may render the planting of a post impossible, the said corner may be indicated by the erection at the nearest suitable point of a witness post, which in that case shall contain the same marks as those prescribed in this clause with regard to corner posts, together with the letters W.P., and an indication of the bearing and distance of the site of the true corner of such witness post.

4. If the location is situated within territory where no surveys have been made, it shall be connected with some prominent feature in the locality, the connection to be shown on a sketch to be furnished by the claimant. If it is situated on the bank of a stream, the claimant shall show on the sketch the general course of the stream, any ravine running back from the same, and such other topographical features as are noticeable.

5. If the location is situated within territory which has not been subdivided, but where one or more township lines have been established, it shall be connected with some point on such established boundary.

6. Having so marked the location on the ground, the claimant shall within thirty days thereafter file with the agent for the land district within which the location is situated, an application for the same with a sketch showing its position, and if within a surveyed tract the quarter-section within which it is situated.

7. If within thirty days after staking a location the claimant has not made application to the agent therefor, it shall be open to any other applicant who complies with the requirements of these regulations.

8. Where two or more persons lay claim to the same location, the right to acquire it shall be in him who can prove that he was the first to discover the mineral deposit involved, and to take possession by demarcation in the manner prescribed in these regulations of the location covering it.

9. When there are two or more applicants for a location, no one of whom is the original discoverer, the Minister of the Interior, if he sees fit to dispose of the location, shall invite their competitive tenders.

10. A permit to mine coal on the location staked out will be issued upon payment of the annual rental of five dollars for any area less than one acre, and for an area of one acre or over, at the rate of five dollars an acre. Returns on a form to be furnished by the Department of the Interior shall be made by the permittee every month to the agent of Dominion lands within whose district the location is situated showing the quantity of coal mined, and payment shall at the same time be made of the royalty thereon at the following rates, namely, twenty cents per ton for anthracite coal, fifteen cents per ton for bituminous coal, and ten cents per ton for lignite coal. Even if no coal has been mined during any one month, the permittee shall send in a return to that effect.

A declaration as to the truth of the return shall be made before a justice of the peace, a commissioner, or an agent of Dominion lands, but if the location is not situated within a radius of five miles of the place where such declaration can be taken, it will be sufficient if the permittee sends in an interim return of the coal mined during the month and pays the royalty thereon. In such case, the permittee shall every three months make a declaration before a justice of the peace, a commissioner, or an agent of Dominion lands, as to the accuracy of such returns for the next preceding period of three months and send it to the agent of Dominion lands.

11. A permit may, in the discretion of the Minister of the Interior, be renewed from year to year so long as the land described therein is vested in the Crown, provided the permittee has complied with all the requirements of these regulations, and is operating his mine to the satisfaction of the Minister.

If at any time during the period the permit is in force the permittee desires to cease operations on his claim, he may do so on making to the agent of Dominion lands a return of all coal mined between the date of his last return and the date upon which he ceased operations, paying the amount for royalty and ground rent, and returning the permit issued to him.

12. The permit while it remains in force shall give to the permittee sole and undisputed possession of the location therein described. In case the applicant for a permit is the owner of the surface rights of the location, no ground rent therefor shall be charged. If the surface of the location is not the property of the Crown, and the permittee desires an easement to the mine, it will be necessary for him to acquire it in accordance with the provisions in that behalf of the regulations for the disposal of coal lands approved by Orders in Council of the 17th September, 1889, and the 9th of July, 1892.

13. The permit shall be returned to the agent on the date specified therein.

14. No permit shall be issued to mine coal on lands which are not situated within territory designated from time to time by the Minister of the Interior as a coal mining district for the purposes of these regulations.

15. If a permittee fails to comply with the requirements of any of the provisions of these regulations, the permit may be forfeited by the Minister of the Interior.

O.C. 23 March 1904

By Order in Council of the 23rd of March, 1904, the regulations for the disposal of coal lands, established by Order in Council of May 19, 1902, were amended by providing that all sales of such lands shall in future be made subject to the provision that actual settlers shall be entitled to buy, at the pit's mouth, whatever coal they may require for their own use, but not for barter or sale, at a price not to exceed $1.75 per ton, and that the patent which may be issued for coal lands shall be made subject to such provision.

O.C. 21 September 1918 (2303)

And whereas section 13 of the said Coal Mining Regulations provides that all leases of coal mining rights, issued under the regulations, shall be subject to the provision that actual settlers shall be entitled to buy at the pits mouth whatever coal they may require for their own use, but not for barter or sale, at a price not to exceed $1.75 per ton, and the lease issued for coal rights shall be made subject to such provision;

And whereas the above provision was first made by Order in Council dated the 23rd of March, 1904, and all coal mining rights have since been disposed of, subject to that provision;

And whereas representations have been made to the Department of the Interior that, as the cost of coal production has very materially increased, it is no longer possible for the mine operators to profitably produce and sell coal at the price fixed, and the request has been made that the maximum charge be very materially increased;

Therefore, in view of the changed conditions of coal production, His Excellency in Council is further pleased to order that the maximum charge of $1.75 per ton specified in the above section of the Coal Mining Regulations, shall be and the same is hereby increased to $2.75 and made to apply to coal mining rights already disposed of:

O.C. 18 February 1920 (378)

Whereas the Minister of the Interior reports as follows:—

By an Order in Council dated the 9th February, 1897, regulations were established for the issue of yearly permits to mine coal on Dominion lands for domestic purposes. The maximum area of a location to be included in a permit may not exceed three acres, and provision is made of the payment of annual rental at the rate of $5 an acre, as well as royalty at the rate of from ten to twenty cents per ton on the quantity of coal mined;

Regulations have since been established for the leasing of coal mining rights, the property of the Crown, for a term of years, subject to the payment of an annual rental at the rate of $1 an acre, together with royalty at the rate of five cents per ton on the quantity of coal taken out;

And whereas the granting of yearly permits to mine coal on small areas of Dominion lanes would no longer appear to be necessary, on account of the regulations since established for the issue of leases of such rights;

Therefore His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, is pleased to rescind the regulations for the issue of permits to mine coal for domestic purposes established by Order in Council dated 9th February, 1897, and the same are hereby rescinded accordingly.

O.C. 11 March 1921 (735)

Whereas by an Order in Council of 9th February, 1897, regulations were established for the issue of permits to mine coal, the property of the Crown, on Dominion lands, but as regulations were subsequently established for the leasing of such coal mining rights for a term of years upon payment of an annual rental at the rate of $1 an acre, it was considered that these regulations were no longer necessary, and they were rescinded by Order in Council of 18th February, 1920;

And whereas representations have been made to the Department of the Interior that actual settlers who are unable to purchase a supply of coal for their own domestic use, and who are not in a position to acquire a lease under the regulations referred to and to equip a mine, desire to revive these regulations, so that they may be in a position to obtain a permit for a small area and take out sufficient coal each year for their own domestic use,—

Therefore His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, is pleased to make the annexed regulations for the issue of permits to mine coal for domestic purposes, but not for sale, and the same are hereby made and established accordingly; such regulations to remain in force until rescinded by order of the Minister of the Interior.

Rodolphe Boudreau,
Clerk of the Privy Council

Regulations for the Issue of Permits to Mine Coal

Regulations for the issue of permits to mine coal, the property of the Crown, for domestic purposes, but not for sale, in the Provinces of Manitoba, Saskatchewan and Alberta, the Yukon Territory, the Northwest Territories, the Railway Belt in the Province of British Columbia, and within the tract containing three and one-half million acres acquired by the Dominion Government from the Province of British Columbia, and known as the Peace River Block.

"Minister" shall mean the Minister of the Interior of Canada.

"Location" shall mean the tract which may be described in a domestic coal permit.

"Locator" shall mean the person who locates or stakes a mining location in the manner prescribed in these regulations.

"Year" shall mean a period of twelve consecutive calendar months.

"Mining Recorder" shall mean the Agent of Dominion Lands for the district, or other officer appointed by the Government for the purpose referred to.

1. a) The coal mining rights which are the property of the Crown in the Province of Manitoba, Saskatchewan, Alberta, the Yukon Territory, the Northwest Territories, the Railway Belt in the Province of British Columbia, and within the tract containing three and one-half millions acres of land acquired by the Dominion Government from the Province of British Columbia, and known as the Peace River Block, may be acquired under permit issued by the mining recorder for the district at an annual rental of $5 payable in advance.

b) Provided, however, that these regulations shall not apply to school lands or to lands comprised in any Dominion forest reserve or park, or other reserves made by Parliament or by order of the Governor in Council, or lands lawfully occupied for mining purposes, or land within any incorporated city, town or village, unless otherwise specially provided by the Governor in Council.

c) The permit shall not convey to the permittee the right to sell any of the coal mined from the location described therein.

2. The maximum area of a coal mining location which may be acquired under permit shall be one (1) acre and no person shall be permitted to hold at the same time more than one permit. The permit may, in the discretion of the Minister, be renewed from year to year so long as the rights described therein are vested in the Crown, provided the permittee has complied in every respect with the requirements of the regulations under which such permit was issued, and provided he is operating a mine to the satisfaction of the Minister.

3. A coal mining location acquired under these regulations shall not exceed three chains in wdith, measured in direct distance, and its greatest dimension shall not exceed five chains, the maximum area embraced not to exceed one acre.

4. The location shall be staked out by the locator in person by placing at each of its four corners a wooden post not less than four inches square, driven not less than eighteen inches into the ground and showing that length above it. If posts cannot be driven into the ground the locator shall erect about each such post, to support it and keep it in place, a cairn or mound of stones at

least three feet in diameter at the base and eighteen inches high. If the location is timbered a line joining the said posts shall be run and fully marked so as to be clearly discernible. If the ground is of such a character that any one post cannot be seen from the ends of either of the lines which form the angle at which the said post is placed, posts flattened on two sides—such flattened portions to face the direction of the line—shall be planted or mounted along the side lines wherever necessary, so that no difficulty may be experienced in following the boundaries of the location. The lines bounding the location shall be straight lines, due north and south and due east and west, and the locator shall mark on the post at the northeast angle of the location legibly his name in full, the date of staking and the letters C.M.L. No.1 to indicate that the post is coal mining location post No. 1. On the post marking the southeast angle of the location he shall place the letters C.M.L. No. 2 and his initials; on the post marking the southwest angle he shall place the letters C.M.L. No.3 and his initials; and on the post marking the northwest angle he shall place the letters C.M.L. No.4 and his initials.

If the corner of the location falls within a ravine, bed of a stream, or other situation where the character of the ground may render the planting of a post impossible, the said corner shall be indicated by the erection at the nearest suitable point of a witness post, upon which he shall place the inscription provided for with regard to corner posts, together with the letters W.P. and an indication of the bearing and distance of the site of the corner marked by such witness post.

5. Application for a location situated in unsurveyed territory shall contain a description of the location applied for, and shall be accompanied by a plan showing the position of such location in its relation to some prominent topographical feature or other known point. The plan shall contain sufficient data to admit of the exact position of the location being definitely shown in the records of the Department. The location shall be rectangular in form, except where a boundary of a previously located coal mining location is adopted as common to both locations, and in no case shall the length of the location exceed three times its breadth.

6. Application for a location situated in surveyed territory shall contain a description of the location applied for, the particular legal subdivision of the section in which the location is situated, and shall be accompanied by a plan showing the position of such location in its relation to one of the survey posts marking the section in which it lies. Unless definite information is furnished as to the exact position of the location so staked the application for a permit will not be considered.

7. The location shall in all cases be personally staked out by the applicant, who shall within thirty days from the date of location submit his application in person to the mining recorder for the district, or to a sub-recorder for such district for transmission to the recorder. If personal application is not submitted in the manner prescribed within thirty days from the date of staking it shall not be considered.

8. Where two or more persons lay claim to the same location the right to acquire the same shall be in him who can prove that he was the first to make discovery, or to take possession by demarcation in the manner prescribed in these regulations.

9. If application is made by two or more applicants for the same location, no

one of whom is the original discoverer, the Minister may invite their competitive tenders.

10. No person shall enter upon for mining purposes or shall mine upon lands owned or lawfully occupied by another, until he has given adequate security to the satisfaction of the mining recorder for any loss or damage which may be thereby caused, and persons so entering, locating, prospecting, or mining upon any such lands shall make full compensation to the owner or occupant of such lands for any loss or damage so caused.

11. In addition to the rent a royalty at the rate of twenty-five cents per ton of 2,000 pounds shall be levied and collected on the merchantable output of the mine, and such royalty shall be payable to the mining recorder for the district. The person operating a mine shall furnish the mining recorder for the district with sworn returns monthly, or at such times as the Minister may direct, accounting for the full quantity of merchantable coal mined, and shall pay the royalty thereon.

12. Default in payment of the royalty or in furnishing returns, if continued for thirty days after notice has been posted at the mine, or conspicuously on the property in respect of which it is demanded, by the mining recorder, or by his direction, may be followed by cancellation of the permit.

13. Any attempt to defraud the Crown by withholding any part of the revenue thus provided for, by making false statement of the amount taken out, may, in the discretion of the Minister, be punished by cancellation of the permit.

14. In the event of it being found necessary, when the permittee has been requested three times in writing to forward any overdue return, to send a mining inspector or other officer to secure the same, the Minister may charge and may collect from the permittee the expenses incurred in securing such return, and failure to make payment of the expenses so incurred shall render the permit subject to cancellation.

15. The permittee shall, before opening any mine on the tract described in his permit, and before removing any coal therefrom, notify the mining inspector in writing of his intention to do so, and, with a view to conservation, all operations for the recovery of such coal shall be in accordance with instructions given by the Inspecting Engineer of Mines. Failure on the part of the permittee to so notify the mining inspector of his intention to commence operations, or failure to comply strictly with such instructions as may be issued by the Inspecting Engineer of Mines as to the manner in which the location shall be operated will render the permit subject to immediate cancellation.

16. The mining inspector or other officer or person designated by the Minister shall have the right to enter upon any land acquired under permit, or the workings thereon, to examine all records and books of account of the permittee or operator, and to make such other examination as may be deemed necessary in order ascertain whether or not the conditions of the permit and the instructions respecting operation are being complied with.

17. The permit shall be returned to the mining recorder on the date specified therein, and for failure to do so the mining recorder may refuse to issue another permit.

O.C. 14 November 1929 (2257)

Certified to be a true copy of a Minute of a Meeting of the Committee of the

Privy Council, approved by His Excellency the Governor General, on the 14th November, 1929.

The Committee of the Privy Council have had before them a report, dated 25th October, 1929, from the Minister of the Interior, submitting that the Premier of the Province of Saskatchewan has placed before the Minister a request that the Federal Government assist the Province in solving the relief problems which have arisen through poor crop conditions in certain localities, by permitting settlers within such areas to obtain their supply of coal for the present season from the outcroppings in southern Saskatchewan free from any fees or royalties.

Under the regulations, coal mining rights may be acquired either under lease or under permit. Applicants may acquire leases for a term of twenty-one years for areas of from 20 to 2,560 acres, at an annual rental of $1 per acre, subject to the payment of royalty dues at the rate of 5 cents per ton. Persons desiring to mine coal for their own use, but not for barter or sale, may obtain permits at the Mining Recorders' offices for areas not exceeding one acre, at an annual rental of $5, subject to royalty dues at the rate of 25 cents per ton on the quantity of coal mined.

While it would appear that the regulations do not impose undue burdens on applicants for coal mining rights, and while the Permit Regulations were framed for the especial benefit of settlers, nevertheless, in view of the representations which have been made that distress may result from the poor crop conditions in certain parts of the Province of Saskatchewan, and as, no doubt, similar conditions exist in portions of the other Prairie Provinces as well, the Minister recommends that authority by given to permit settlers therein to take coal from vacant Dominion Lands free of charge, such permission to be given and exercised in accordance with the procedure to be adopted by the Department of the Interior, within areas in each of the Provinces of Saskatchewan, Alberta and Manitoba, where the Provincial Government certifies that necessity for such action exists, the coal so mined to be for the settlers' own use, and not for the purposes of barter or sale, and the permission for such free mining to terminate on the 30th day of June, 1930.

The Committee concur in the foregoing recommendation and submit the same for approval.

TIMBER

Commercial Operations

Method of Disposition

S.C. 1872 35 Victoria c. 23 s.50

50. The right of cutting timber on such limits shall be put up at a bonus per square mile, varying according to the situation and value of the limit, and sold to the highest bidder by competition, either by tender or at public auction.

S.C. 1883 46 Victoria c. 17 s.44

49-1. The Governor in Council may, from time to time, order that leases of the right to cut timber on certain timber berths defined in the order shall be offered at public auction at an upset bonus fixed by the order, and given to the person bidding, in each case, the highest bonus therefor—such bonus to be paid in cash at the time of sale: The Governor in Council may also authorize the lease of the right to cut timber on any timber berth to any person who is the sole applicant for it,—the bonus to be paid by such applicant to be fixed in the order authorizing the lease to him, and to be paid in cash at the time of its issue:

49-2. When one or more persons apply for the right to cut timber upon the same berth, the Governor in Council may authorize the Minister of the Interior to invite tenders from the applicants, or the public; and the person tendering the highest cash bonus therefor, shall be entitled to the lease.

S.C. 1908 7-8 Edward VII c. 20 s. 51

51. The Governor in Council may make regulations for the disposal by public competition of the right to cut timber on berths to be defined in the public notice of such competition: Provided that a) no berth shall exceed an area of twenty-five square miles; b) no berth shall be awarded except to the person who offers the highest bonus or bid therefor; and c) no offer by tender shall be accepted unless accompanied by the full amount of the bonus.

S.C. 1918 8-9 George V. c. 19 s. 16

16. Section fifty-one of the said Act is repealed and the following is substituted therefor:—

> 51. The Governor in Council may make regulations for the disposal by public competition of the right to cut timber on berths to be defined in the public notice of such competition: Provided that a) no berth shall exceed an area of twenty-five square miles, excepting a timber berth granted for the cutting thereon of pulpwood, which pulpwood berth shall be of such area as may be determined by the Governor in Council; b) no berth shall be awarded except to the person who offers the highest bonus or bid therefor; and c) no offer by tender shall be accepted unless accompanied by the full amount of the bonus.

Lands Subject to Disposition

S.C. 1872 35 Victoria c. 23 ss. 47 & 48

47. Any tract of land covered by forest timber may be set apart as timber lands, and reserved from sale and settlement.

48. Except where it may be thought expedient by the Secretary of State to divide a township into two or more timber limits, the several townships composing any such tract shall each form a limit.

S.C. 1883 46 Victoria c. 17 ss. 47 & 48

47. The Governor in Council may, from time to time, declare districts of territory to be timber districts, and no lease of a timber berth shall be granted except within timber districts so set apart.

48. The Minister of the Interior may set apart any tract of land in any timber district, and may cause the same to be divided into timber berths not exceeding in area fifty square miles each; and the same shall be reserved from sale and settlement; and, under such regulations as may be made by the Governor in Council respecting the ground rents, royalties or other dues which are to be paid in connection therewith, leases of the right to cut timber on such berths may be granted as hereinafter provided.

S.C. 1908 7-8 Edward VII c. 20 s. 51

51. The Governor in Council may make regulations for the disposal by public competition of the right to cut timber on berths to be defined in the public

notice of such competition: Provided that a) no berth shall exceed an area of twenty-five square miles; b) no berth shall be awarded except to the person who offers the highest bonus or bid therefor; and c) no offer by tender shall be accepted unless accompanied by the full amount of the bonus.

S.C. 1918 8-9 George V c.19 s.16

16. Section fifty-one of the said Act is repealed and the following is substituted therefor:—

> 51. The Governor in Council may make regulations for the disposal by public competition of the right to cut timber on berths to be defined in the public notice of such competition: Provided that a) no berth shall exceed an area of twenty-five square miles, excepting a timber berth granted for the cutting thereon of pulpwood, which pulpwood berth shall be of such area as may be determined by the Governor in Council; b) no berth shall be awarded except to the person who offers the highest bonus or bid therefor; and c) no offer by tender shall be accepted unless accompanied by the full amount of the bonus.

Rights and Obligations of the Operator

S.C. 1872 35 Victoria c. 23 ss. 51 & 52

51. The purchaser shall receive a lease granting the right of cutting timber on the land for twenty-one years, and containing the following conditions, with such others as shall have been embodied in the notice of sale, that is to say:—

> 1. The lessee to erect a saw mill or mills in connection with such limit and lease, and subject to any special conditions which may be agreed upon and stated in the lease, such mill or mills to be of capacity to cut at the rate of a thousand feet, board measure, in twenty-four hours, for every two and a half square miles of limits in the lease, or shall establish such other manufactory of wood goods as may be agreed upon as the equivalent of such mill or mills, and the lessee to work the limit, in the manner and to the extent provided in the lease, within two years from the date thereof, and during each succeeding year of the term.
>
> 2. To take from every tree he cuts down all the timber fit for use, and manufacture the same into sawn lumber or some other such saleable product as may be provided in the lease or by any Regulations made under this Act.
>
> 3. To prevent all unnecessary destruction of growing timber on the part of his men, and to exercise strict and constant supervision to prevent the origin or spread of fires.
>
> 4. To make returns to the Government monthly, or at such other periods as may be required by the Secretary of State, or by Regulations under this Act, sworn to by him or by his agent or employee cognizant of the facts, declaring the quantities sold or disposed of as aforesaid, of all sawn lumber, timber, railway car stuff, ship timbers and knees, shingles, laths, cordwood or bark, or any other product of timber from the limit, in whatever form the same may be, sold or otherwise disposed of by him during such month or other period, and the price or value thereof.
>
> 5. To pay, in addition to the bonus, an annual ground rent of two dollars per square mile, and further a royalty of five per cent on his monthly account.

6. To keep correct books of such kind and in such form, as may be provided by his lease or by Regulation under this Act, and to submit the same for the inspection of the collector of dues whenever required, for the purpose of verifying his returns aforesaid.

7. The lease shall describe the lands upon which the timber may be cut, and shall vest in the lessee during its continuance, the right to take and keep exclusive possession of the lands so described, subject to the conditions hereinbefore provided or referred to; and such lease shall vest in the holder thereof, all right of property whatsoever in all trees, timber, lumber and other products of timber, cut within the limits of the lease during the continuance thereof, whether such trees, timber and lumber or products be cut by authority of the holder of such lease or by any other person, with or without his consent; and such lease shall entitle the lessee to seize in replevin, revendication or otherwise, as his property, such timber where the same is found in the possession of any unauthorized person, and also to bring any action or suit at law or in equity against any party unlawfully in possession of any such timber, or of any land so leased, and to prosecute all trespassers thereon and other such offenders as aforesaid, to conviction and punishment, and to recover damages, if any: and all proceedings pending at the expiration of any such lease may be continued and completed as if the lease had not expired.

8. Such lease shall be subject to forfeiture, for infraction of any one of the conditions to which it is subject, or for any fraudulent return; and in such case the Secretary of State shall have the right, without any suit or other proceeding at law or in equity, or compensation to the lessee, to cancel the same, and to make a new lease or disposition of the limit described therein, to any other party, at any time during the term of the lease so cancelled: Provided, that the Secretary of State, if he sees fit, may refrain from forfeiting such lease for non-payment of dues, and may enforce payment of such dues in the manner hereinafter provided.

9. The Lessee who faithfully carries out the above conditions, shall have the refusal of the same limits, if not required for settlement, for a further term not exceeding twenty-one years, on payment of the same amount of bonus per square mile as was paid originally, and on such lessee agreeing to such conditions, and to pay such other rates, as may be determined on for such second term.

52. If, in consequence of any incorrectness in survey, or other error or cause whatsoever, a lease is found to comprise lands included in one of prior date, or any lands sold, granted, leased or lawfully set apart for any other purpose under this Act, the lease first mentioned shall be void in so far as it interferes with any such previous lease, sale, grant or setting apart.

S.C. 1880 43 Victoria c. 26 s. 7

7-1. Section fifty-two of the said Act is hereby amended by adding to sub-section seven thereof, the following words:—

> Provided that such lease shall be subject to the right of the Government to deal with any and all coal and other minerals which may be found in the land described therein, in accordance with the provisions of this Act and the regulations to be made under it by the Governor in Council, respecting lands containing coal or other minerals;

And the said proviso shall operate retrospectively, that is to say, it shall apply to the several leases of timber heretofore granted under the said Act, as if it had been contained in the said Act when it was passed:

7-2. The said section is hereby also amended by the further addition to the said sub-section seven of the following words:—

> Provided further that the Government shall have the right in dealing, as above provided, with any coal or other minerals in lands leased as timber limits, to authorize the persons to whom such coal or other minerals may be granted, to take possession of and occupy such extent of the land so leased as may be necessary to work such coal or other minerals, and to open necessary roads through any such timber limit, paying the lessee of the limit the value of any and all timber necessarily cut in connection with or by reason of such workings or roads;

And this amendment shall be construed with reference to the amendment to the said Act made by the next preceding section of this Act, as if the provisions thereby made had been contained in the said Act when it was passed.

S.C. 1883 46 Victoria c. 17 ss. 51-55

51. The lease shall describe the lands upon which the timber may be cut, and shall, during its continuance, vest in the lessee all rights of property whatsoever in all trees, timber, wood or other products of wood, cut within the limits of the leasehold, whether such trees, timber and wood or products be cut by his authority or by any person without his consent; and such lease shall entitle the lessee to seize in replevin, revendication or otherwise, as his property, such timber where the same is found in the possession of any unauthorized person, and also to bring any action or suit at law or in equity, against any party unlawfully in possession of any such timber, and to prosecute all persons cutting timber in trespass upon his lease, to conviction and punishment, and to recover damages, if any; and all proceedings pending at the expiration of any such lease may be continued and completed as if the lease had not expired.

52. The lease shall contain, in addition to such other provisions as may be in the Order in Council granting it, or in the conditions of sale or tender under which it was obtained, provisions binding the lessee,—

1. To erect in connection with the berth leased, and to have in operation within a time prescribed in the lease, a saw mill or mills of capacity to cut in twenty-four hours a thousand feet, board measure, for every two and a half square miles of the area leased; or to establish such other manufactory of wood goods as may be accepted by the Minister of the Interior as equivalent thereto;

2. To pay in advance, in addition to the bonus, an annual ground rent of five dollars per square mile, and further, to pay in cash at each time of his making the return prescribed in sub-clause four of this clause, a royalty of five per cent on his sales of the products of the berth as shown by such return;

3. To keep correct books of account of his business, and to submit the same for the inspection of any authorized agent of the Minister of the Interior, whenever required;

4. To make, monthly, or at such other interval of time as they may be required of him, by regulation under this Act or by the Minister of the Interior, returns sworn to by him or by his agent or employee cognizant of

the facts, declaring the quantities taken from the berth and those sold, of all timber or products of wood, in whatever form the same may be sold or otherwise disposed of by him during such month or other period, and the amount received by him therefor;

5. To prevent any unnecessary waste of timber in the process of cutting it, and to prevent, when it can be avoided, the destruction of growing trees which have not yet attained a size fitting them to be used for merchantable timber;

6. To exercise strict and constant supervision to prevent the origin and spread of fire.

53. If, in consequence of any incorrectness in survey, or other error or cause whatsoever, a lease is found to comprise lands included in another lease of prior date, or any lands sold, granted, leased or lawfully set apart for any other purpose under this Act, the later lease shall be void in so far as it interferes with any previous lease, sale, grant or setting apart.

54. Every lease of a timber berth shall be subject to the right of the Government to deal, in accordance with the provisions of this Act and regulations made under it by the Governor in Council, with any and all coal and other minerals which may be found within the limits of the berth leased; and the Government shall have the right, in dealing, as above provided, with any coal or other minerals in lands leased as timber limits, to authorize the persons to whom such coal or other minerals may be granted, to take possession of and occupy such extent of the land so leased as may be necessary to work such coal or other minerals, and to open necessary roads through any such timber berth,—paying the lessee of the berth the value of any and all timber necessarily cut in making such roads or in working the mines; and the provisions of this clause shall operate retrospectively: that is to say, they shall apply to all leases of timber berths heretofore granted under any Act respecting Dominion Lands, as if they had been contained in such Act when it was passed.

55. Every lease shall be subject to forfeiture for infraction of any one of the conditions to which it is subject, or for any fraudulent return; and in such case the Minister of the Interior shall have the right, without any suit or other proceeding at law or in equity, or compensation to the lessee, to cancel the same, and to make a new lease or disposition of the limit described therein, to any other party, at any time during the term of the lease so cancelled: Provided, that the Minister of the Interior, if he sees fit, may refrain from forfeiting such lease for non-payment of dues, and may enforce payment of such dues in the manner by this Act provided.

S.C. 1908 7-8 Edward VII c. 20 ss. 52-58

52. The person to whom a timber berth is awarded under the next preceding section shall be granted a license therefor, which license shall describe the land upon which the timber may be cut, the kind of timber to be cut, and the dimension thereof, and shall, during its continuance, vest in the licensee, subject to the conditions mentioned in the license, all rights of property whatsoever in all trees, timber, lumber or other products of timber which he is entitled by the license to cut and which have been cut within the limits of the berth during the continuance thereof, whether such trees, timber, lumber or other products are cut by consent of the licensee or by any other person without his consent, and shall vest in the licensee, as against any person other than the Crown in the right of the Dominion, subject to the

conditions mentioned in the license, all right of property whatsoever in all trees, timber, lumber and other products of timber cut within the limits of the berth by any other person without his consent; and such license shall entitle the licensee to seize in replevin, revendication or otherwise, as his property, timber of any kind cut within the limits of the berth where it is found in the possession of any unauthorized person, and also to bring any action or suit against any person unlawfully in possession of such timber, and to prosecute all persons cutting timber of any kind in trespass, or entering without authority upon the berth covered by the license, to conviction and punishment, and to recover damages, if any; and all proceedings pending at the expiration of any such license may be continued and completed as if the license had not expired.

53. The license shall be for a term not exceeding one year, but shall be renewable from year to year while there is on the berth timber of the kind and dimension described in the license, in sufficient quantity to make it commercially valuable, such renewal being subject to the payment of such dues and to such terms and conditions as are fixed by the regulations in force at the time the renewal is made. The Minister shall be the judge as to whether the terms and conditions of the license and the provisions of this Act and of the regulations made hereunder respecting timber berths have been fulfilled.

54. The license shall, in addition to such other provisions as are contained in the regulations or in the conditions under which the berth was disposed of, contain provisions binding the licensee—

a) to erect and have in operation in connection with the berth, within one year from the date upon which he is ordered so to do by the Minister, a saw mill or saw mills capable of cutting in twenty-four hours one thousand feet board measure for every two and a half square miles of the berth, and to keep such mill or mills in operation for at least six months in each year of the continuance of his license;

b) to pay in advance, in addition to the bonus or bid, such annual ground rent as is fixed by the regulations, and, in addition thereto, to pay in cash, at each time of making the returns prescribed in paragraph d) of this section such dues as are fixed by the regulations;

c) to keep correct books of account of his business, and to submit them for the inspection of any authorized agent of the Minister whenever required;

d) to make to the timber agent of the district, monthly, or at such other intervals of time as they are required of him by regulation made under this Act or by the Minister, returns sworn to by him or by his agent or employee cognizant of the facts, with all the details of his timber operations, in such form and manner as the regulations provide;

e) to prevent any unnecessary waste of timber in the process of cutting it, and to prevent all avoidable destruction of growing trees which have not yet attained the dimensions described in the license;

f) to exercise strict and constant supervision to prevent the origin and spread of fire; and to comply during the term of the license and of any renewal thereof, with all regulations made in that respect by the Governor in Council, and with all laws or regulations in that respect in force in the province or territory in which the berth is situate.

55. If, in consequence of any incorrectness in survey or other error or cause

whatsoever, a license is found to cover land covered by another license of prior date, or any land sold, granted, leased, or lawfully set apart for any other purpose under this Act, the later license shall be void in so far as it interferes with any such previous lease, license, sale, grant or setting apart.

56-1. Every license of a timber berth shall be subject to the provisions of this Act, or of any other Act, or of any regulations made thereunder, dealing with or affecting the disposal of quarriable stone, salt, petroleum, natural gas, coal, gold, silver, copper, iron or other minerals within or under lands within the boundaries of such berth; and in and by virtue of any grant, lease or permit issued under regulations made as aforesaid, the grantee, lessee or permittee shall have the right to secure, use and hold possession of such land as is described in the grant, lease or permit for quarrying stone for the boring and operating of any salt, oil, or natural gas wells, or for the working of any mines, and the right to open any roads necessary in connection with such works. Provided that the licensee of the berth shall be paid by the grantee, lessee or permittee the value of all timber cut, damaged or destroyed in making such roads, or in boring or operating any salt, oil or gas wells, or in working any quarries or mines, or as a consequence, directly or indirectly, or any such operation or work.

56-2. Every license of a timber berth shall be subject to the right of the Minister to permit prospecting on the berth for quarriable stone, salt, petroleum, natural gas, coal, gold, silver, copper, iron or other minerals; but the licensee shall be notified of every such permission, and shall be entitled to compensation from the prospector for any timber cut, damaged or destroyed by the prospector or as a consequence of his prospecting of the berth.

56-3. The provisions of this section shall apply to all timber berths heretofore disposed of under any Act respecting Dominion lands, as if they had been contained in that Act when it was passed.

57. When any portion of a timber berth has not upon it timber in sufficient quantity to make it commercially valuable of the kind and dimensions described in the license, the Minister may declare that portion fit for settlement and withdraw it from the berth and from the operation of the license covering it: Provided that no withdrawal shall be made unless the licensee or his agent has had one year's notice thereof, or unless the Minister is satisfied that the withdrawal can be made without injuriously interfering with the operations of the licensee on the berth; and that, upon any such withdrawal, the ground rent shall be reduced in proportion to the area withdrawn.

58. Licenses issued under the authority of this Act, for timber berths which are located within the boundaries of any reserve established by the *Dominion Forest Reserves Act*, chapter 56 of the Revised Statutes, 1906, or by any Act subsequent thereto which sets apart forest reserves, shall be subject to any provisions contained in that Act, or in regulations made thereunder, providing for the protection of game, the prevention of fires, and the preservation and reproduction of timber: Provided that, when any portion of such a timber berth has not upon it timber in merchantable quantity of the kind and dimension described in the license, the Minister may withdraw that portion from the license, notwithstanding anything in this Act or any other Act or in any regulation made thereunder; and upon such

withdrawal the ground rent shall be reduced in proportion to the area withdrawn.

S.C. 1918 8-9 George V. c.19 ss.17-19

17. Paragraph a) of section fifty-four of the said Act is amended by adding immediately after the word "license" in the seventh line thereof the words "provided that the grantee of a pulpwood berth shall erect a mill or mills of such capacity and character, and at such point or points, and at such time or times as the Minister may decide."

18. Section fifty-seven of the said Act is repealed and the following section is substituted therefor:—

> 57-1. When, in the opinion of the Minister any portion of a timber berth has not a sufficient quantity of the kind and dimensions of timber specified in the license for such berth to make it profitable to remove the timber upon such portion of the berth, and when, in the opinion of the Minister, such portion of the berth is not necessary for the proper working of the remainder of the berth, the Minister may withdraw such portion from the berth, but in no case shall such withdrawal be made until the expiration of sixty days after a notice in writing of the proposed withdrawal has been given to the lessee or to his legal representative by the Minister or by some one thereto authorized by the Minister.
>
> 57-2. Upon the withdrawal of any portion of a timber berth, the rental to be paid under the license shall be reduced in proportion to the area withdrawn."

19. Section fifty-eight of the said Act is hereby repealed and the following section is substituted therefor:—

> 58. Licenses issued under the authority of this Act for a timber berth situated within the boundaries of a Dominion Forest Reserve or of a Dominion Park established under the provisions of chapter ten of the statutes of 1911, or of any Act passed amending that Act, shall be subject to such provisions of the said Acts, and to such regulations as are made by the Governor in Council thereunder as provide for the protection of Dominion Forest Reserves, of Dominion Forest Parks, and the protection of game, birds, fish or other animals therein, and the prevention of fires therein, and the preservation and reproduction of timber.

O.C. 14 December 1916 (3068)

By Order in Council of the 14th of December, 1916, the regulations governing the granting of yearly licenses and permits to cut timber on Dominion lands, established by Order in Council of the 1st July, 1898, and subsequent Orders in Council, were amended by adding the following thereto:—

> 1. In any case where waters flowing through, over, or along, or having their source in any timber berth, empty into any stream, or are tributary to any stream from which a domestic or municipal water supply is or may be obtained, or in any case where the pollution of any such waters may, in the opinion of the Minister, deleteriously affect any municipal or domestic water supply, the licensee of such timber berth shall comply with the following regulations:
>
> > a) Locate all camp buildings, outhouses, cesspools, and other structures at a sufficient distance from any stream, lake or other source of water

supply to prevent the pollution of such municipal or domestic water supply.

b) Immediately remove and burn any camp refuse or debris of any description, or any substance which would be likely to cause the pollution of any such waters, and otherwise keep the ground in the vicinity of all logging camps in a neat, orderly and sanitary condition.

c) Prevent any depositing, leaving or accumulation in any stream, lake or other source of water supply within the berth, or in an exposed or unsanitary condition on the berth, any debris of any description or any substance which would be likely to cause the pollution of such waters.

d) Prevent the depositing or leaving by any person employed or purporting to be employed about the berth, or the accumulation as a result of any operations carried on by reason of the license in any stream, lake or other source of such water supply on any Dominion lands what ever or in an exposed or unsanitary condition on any such lands, any such debris or substance.

e) Observe all laws and regulations respecting sanitation and the protection of the purity of waters which are applicable to the premises, or any regulations which may be promulgated by the Governor in Council; and shall also comply with any requirements which may be made by the Minister for the purpose of carrying out the above provisions.

2. For each infraction of the provisions of clause 1) hereof, the licensee shall, in addition to the other penalties provided in the said regulations, be liable on summary conviction to a penalty not exceeding one hundred dollars, and such sum shall be recoverable with costs at the suit of, and in the name of the Crown.

Canadian Manufacture

C.R.C. 1889 c. 98 s. 20

20. The Governor in Council may allow on exportation beyond the limits of Canada, of any piles or spars, or any timber manufactured at any mill in British Columbia, upon which the royalty imposed by these regulations has been paid, a draw-back or rebate equal to one half the royalty upon such timber.

O.C. 18 December 1890

By Order in Council of Thursday,the 18th day of December, 1890, under the authority of chapters 54 and 56 of the Revised Statutes, intituled respectively the *Dominion Lands Act* and *An Act respecting certain public lands in British Columbia* sub-clause c) of section 2 of the Timber Regulations approved by the Order in Council of the 17th day of September, 1889, establishing regulations affecting Timber on Dominion Lands, chapter 98 of the Consolidated Orders in Council of Canada, was amended, so that licensees shall have the option of either paying the royalty of five per cent therein specified, on the value of the lumber in the log, or at the period at which the lumber, when manufactured, is sold; and that if the dues are paid at the former period, the royalty shall be on the average price received for lumber during the three months next previous to the date upon which the dues are paid. And further, section 20 of the Regulations in question, which provided for a drawback or rebate of the dues paid upon timber which had been exported beyond the limits of Canada, was repealed.

O.C. 25 July 1895 (2195)

On a Report, dated 13th July, 1895, from the Minister of the Interior, stating that the regulations promulgated by the Government of the Province of British Columbia, for the leasing of timber lands outside of the railway belt, prescribe the dues to be paid for the timber at the rate of fifty cents per thousand feet on all logs cut, and provide for a rebate of twenty-five cents per thousand feet on all manufactured lumber shipped from the Province.

The Minister further states that representations have been made by persons who have acquired timber berths within the railway belt in the said Province from the Government of Canada, that they are unable to pay the royalty prescribed by the regulations under which they hold their licenses, namely, five per cent upon the sales, which amounts to about fifty cents per thousand feet, and compete with licensees of timber berths situated outside of the belt. They ask that they be placed upon as good a footing as the Provincial Government licensees, and be permitted to pay dues at the rate of fifty cents per thousand feet on logs cut on their berths, and to be entitled to a rebate of forty cents per thousand feet on manufactured lumber exported from the Province.

The Minister is of the opinion that the public interest would not suffer if the request referred to in the preceding paragraph were granted, with the proviso that no rebate shall be given upon lumber shipped to Manitoba or the North West Territories and he recommends accordingly.

O.C. 3 January 1896 (3646)

On a Memorandum dated 10th December, 1895, from the Minister of the Interior, submitting that by the Order in Council of the 25th of July last, the licensees of timber berths situate in the Railway Belt in the Province of British Columbia were permitted to pay dues on the timber cut by them at the rate of fifty cents per thousand feet B.M. instead of a royalty of five per cent on the sales of lumber and they were also entitled to receive a rebate of forty cents per thousand feet on manufactured lumber exported from the Province, except upon lumber shipped to Manitoba or the North-west Territories.

That representations have been made to the Minister of the Interior by the licensees, that this new regulation makes the dues on the lumber sold in the Province and shipped to Manitoba and the North-west Territories, higher than formerly when they paid a royalty of five per cent on the sales, instead of a fixed rate of fifty cents per thousand feet.

The minister states that lumber at the present time is selling in the Province of British Columbia at from $7 to $9 per thousand feet. The royalty thereon at five per cent would therefor amount to from thirty-five to forty-five cents per thousand feet, being from five to ten cents per thousand feet less than the dues of fifty cents per thousand prescribed by the Order in Council of 25th July last, above referred to.

The Minister recommends, as it was the intention in passing the said Order to give relief to the licensees instead of burdening them with an additional tax on the lumber cut by them, that the dues on lumber sold in the Province and exported to Manitoba and the North-west Territories be five per cent royalty on the sales, and that the dues on lumber otherwise exported from the Province be at the same rate less a rebate of forty cents per thousand feet.

O.C. 1 July 1898 (1734)

A rebate of forty cents per thousand feet, B.M., will be allowed on lumber exported from British Columbia to places outside of the Dominion of Canada, provided the licensee can produce evidence to the Crown Timber Agent as to the quantity exported.

O.C. 30 July 1901

By Order in Council of the 30th of July, 1901, the regulations governing the granting of yearly licenses and permits to cut timber in Manitoba, the North-west Territories, and the railway belt in the province of British Columbia, were amended so as to provide that all timber cut on berths in the railway belt in British Columbia shall be manufactured within the limits of the Dominion.

O.C. 24 September 1901

By Order in Council of the 24th of September, 1901, the rebate of forty cents per thousand feet B.M. allowed on lumber exported from British Columbia to places outside the Dominion of Canada under limitations specified in an Order in Council dated July 1, 1898, and amending Orders, was rescinded.

O.C. 19 December 1907

31. All timber taken from berths acquired under the provisions of these regulations shall be manufactured within the Dominion of Canada, and all timber taken from a berth in Manitoba, Saskatchewan, Alberta or the Northwest Territories must be manufactured at the sawmill of the licensee to be operated in connection with the berth as prescribed by section 32 of these regulations, unless permission otherwise is given by the Minister of the Interior, as provided by the said section.

O.C. 23 April 1921 (1191)

31. All timber taken from berths acquired under the provisions of these regulations shall be manufactured within the Dominion of Canada, and all timber taken from a berth in Manitoba, Saskatchewan, Alberta or the Northwest Territories must be manufactured at the sawmill of the licensee to be operated in connection with the berth, as prescribed by section 32 of these regulations, unless permission otherwise is given by the Minister of the Interior as provided by the said section.

O.C. 26 March 1924 (459)

31. All timber taken from berths acquired under the provisions of these regulations shall be manufactured within the Dominion of Canada, and all timber taken from a berth in Manitoba, Saskatchewan or Alberta, must be manufactured at the sawmill of the licensee to be operated in connection with the berth, as prescribed by section 32 of these regulations unless permission otherwise is given by the Minister of the Interior as provided by the said section.

Pulpwood

O.C. 19 May 1920 (1093)

Regulations governing the granting of permits to cut timber for pulp purposes on Dominion lands in the Provinces of Manitoba, Saskatchewan and Alberta, the Northwest Territories, within twenty miles on either side of the Canadian Pacific Railway in the Province of British Columbia and the tract of three and one-half million acres controlled by the Government of the Dominion in the Peace River District in the Province of British Columbia.

That berths shall be disposed of by tender, after having been advertised for not less than ninety days in at least two newspapers having a general circulation in the province in which the berth is located.

That persons desirous of securing pulpwood berths shall locate the same and make application therefor to the Controller of the Timber and Grazing Lands Branch, Ottawa, or to the Crown Timber Agent for the district. The applicant shall furnish a ground sketch or plan showing the boundaries of the tract applied for.

That in the event of it being decided to dispose of a berth as provided in these regulations, the Minister, after an inspection has been made by an officer of his department, shall decide the area to be included therein and whether or not it will be necessary to have the boundaries thereof run by a duly qualified Dominion Lands Surveyor. If a survey is necessary, the successful tenderer shall be required to pay the cost thereof and the amount involved must be paid before the agreement hereinafter referred to is executed. If a berth is granted without the boundaries being surveyed and it is afterwards found necessary to have a survey made, the Minister may require the permittee, at his own expense, to have the boundaries run by a Dominion Lands Surveyor, and to keep the marking of the boundaries in such condition that the boundary lines may be readily observed.

That the length of a berth shall not exceed three times its width, and that in the event of a berth comprising several blocks the length of no block shall be more than three times its width.

That a tract containing sufficient merchantable timber 10 inches and over in diameter at the stump to make the same a sawmill proposition shall not be included in a pulpwood berth.

That tenderers shall be asked to state the amount per cord on pulpwood they are prepared to pay as a bonus, in addition to dues at 60 cents per cord, but the rate of dues chargeable on timber cut may be fixed from time to time by the Governor in Council.

That a berth cannot be assigned or transferred without the consent of the Minister, and where assignment is agreed to, a registration fee of 25 cents per square mile shall be charged.

That a tenderer shall be required to deposit with his tender a marked cheque drawn on a chartered bank of Canada, payable to the Deputy Minister of the Interior, for a certain amount, which shall depend upon the size and value of the berth, and which amount shall be forfeited in the event of his not entering into agreement to carry out the conditions attached. The amount of deposit will be set out in the notice calling for tenders. If the successful tenderer enters into agreement to carry out the conditions, the deposit will be applied on account of bonus dues as they accrue, but the regulation dues will require to be paid in the usual manner as returns of cutting of wood are received.

The Minister may, subject to the approval of the Governor in Council and subject to these regulations, enter into an agreement with the successful tenderer, the general conditions of which shall be available when the berth is being advertised for sale, requiring him to erect within the limits of the berth or as some other place approved by the Minister, a pulp and paper mill costing with the equipment thereof and machinery contained therein a specified sum; to operate the mill to a certain extent; to keep a certain number of hands employed, etc., but before entering into the agreement, the Minister shall require him to furnish a bond from an approved guarantee company for an amount not less than 3 per centum of the amount proposed to be expended upon the paper or pulp undertaking (but exclusive of the amount proposed to be expended upon the water-power development, if any, the guarantee for which is provided for under the Dominion Water-Power Regulations), for the purpose of guaranteeing the faithful performance of such agreement; and such agreement shall provide that the initial development shall be completed and placed in operation within such period, not exceeding five years after the agreement is executed, as may be stipulated therein. The agreement shall provide that at least a certain percentage (never less than 50 per cent) of the pulp manufactured shall be manufactured into paper at the mill erected by the permittee.

The agreement shall provide that the successful tenderer may, if he so desires, apply under the Dominion Water-Power Regulations for the right to develop any conveniently located water-power for the purpose of supplying energy to his mill or mills, and if the water-power applied for is available and, in the opinion of the Director of Water-Power, suitable for the purpose, the Minister shall proceed under the Water-Power Regulations to enter into an agreement with the successful tenderer whereby the successful tenderer shall, on the satisfactory completion of the development, become entitled to a lease for the necessary Dominion lands and a license to use the water for the purpose of his water-power development.

Note: This provision is not effective in British Columbia.

It shall be provided in the agreement that the berth shall be subject to an annual rental at the rate of $1 per square mile, due in advance on the 1st May, but this rate may be changed from time to time by the Governor in Council. If rental is not paid on the due date, it shall be subject to interest at the rate of 7 per cent per annum.

The agreement shall provide that the successful tenderer, provided he has complied with the conditions of the regulations and his agreement, shall have the right to secure from the Dominion Crown Timber Agent for the district a yearly permit covering the berth, authorizing him to cut and remove all trees suitable for the manufacture of pulp 7 inches and upwards in diameter 18 inches from the ground, sufficient to supply the mill or mills for a period of twenty-five years from the date of the sale of the berth, provided the berth contains a sufficient quantity, it being understood that the Minister does not guarantee any particular quantity of pulpwood nor undertake to do more than grant the right to cut such quantities of wood of the kind aforesaid mentioned as may be on the berth. It shall also be provided that the permittee shall be entitled to secure yearly permits for an additional twenty-five years, provided he has faithfully complied with all the conditions of the agreement and the regulations.

The agreement shall provide that all permits shall expire on the 30th April, following the date of issue but as set out in the next preceding clause, the holder of the berth, provided he has complied with the conditions of his agreement and the regulations, shall be entitled to a renewal permit.

That the permittee shall pay one-half the cost incurred by the Crown in guarding the timber on his berth from fire, the Crown paying the other half. A statement will be furnished the permittee showing his shares of the cost incurred, and payment thereof shall be made to the Crown within thirty days thereafter.

Some of the other conditions of the agreement may be as follows, but the Minister may insert such other conditions as he may consider necessary:—

That the permittee shall take from every tree he cuts down all the timber down to and including 4 inches at the top end, and, shall dispose of the tops and branches and other debris of lumbering operations in such a way as to prevent as far as possible the danger of fire, in accordance with the directions of the proper officer of the Timber and Grazing Lands Branch of the Department of the Interior.

That if the Minister should ascertain, after inspection, that any lands within a berth have not a sufficient quantity of pulp timber to make it profitable to remove the timber upon such portion of the berth, he may withdraw such portion of the berth provided the permittee or his legal representative has had sixty days' notice thereof, and that upon such withdrawal the ground rent shall be reduced in proportion to the area withdrawn.

That the permittee shall cut all the timber suitable for pulpwood purposes of the size authorized under these regulations as cutting progresses, and any timber which, in the opinion of the Crown Timber Agent or officer acting for him, is left on the berth uncut or cut and unhauled, shall be subject to regulation dues. The Minister may, however, require, in order to provide for the proper reproduction of the forest, that certain designated trees exceeding 7 inches in diameter 18 inches from the ground shall be left uncut. The total quantity of such trees as may be designated to be left shall not exceed, on the average 10 per cent of the total volume of the trees removed for the manufacture of pulpwood. If the trees designated to be left uncut are cut, dues shall be charged on the estimated quantity of material in such trees at not less than double the regulation rate of dues.

That the permittee shall prevent all unnecessary destruction of growing timber on the part of his men, and exercise strict and constant supervision to prevent the origin and spread of fire, and shall also comply during the term of his permit, and of any renewal thereof, with all regulations made in that respect by the Governor in Council, and with all laws and regulations in that respect in force in the province or territory in which the berth is located.

That the permittee shall furnish the Dominion Crown Timber Agent having jurisdiction in the matter with quarterly returns, or at such periods as may be required by the Minister, sworn to by him or his authorized agent cognizant of the facts, showing the quantity of pulpwood cut during the period covered, and shall pay dues thereon at the rate agreed upon. If payment is not made on the due date, interest at the rate of 7 per cent per annum shall be charged.

That the permit shall entitle the holder to cut pulpwood only and shall not convey to him any right to the soil or use thereof except as may be necessary for cutting and removing such wood.

That no wood cut on a berth shall be exported or sold or disposed of to any person or persons, but such wood shall be used for the purpose of supplying the said mill or mills.

That failure to erect a mill or mills and make the required expenditures within the time specified shall entail forfeiture of the right to cut pulpwood and of the amount of the bond deposited with the Minister.

That the pulpwood shall be cut upon such portion of the berth and in such a manner as the Minister may from time to time direct.

That no refuse, chemicals or matter of any other kind shall be placed or deposited in any river, stream or other waters in such a manner as shall, in the opinion of the Minister, be injurious to fish life.

That a berth shall be subject to cancellation for noncompliance with any of the conditions of the agreement or of the regulations.

Settlement Dispositions

Wood Lots

S.C. 1872 35 Victoria c. 23 s. 46

46. And whereas it is expedient that the timber forming Islands or Belts in townships thrown open for settlement, should be so disposed of as to benefit the greatest possible number of settlers and to prevent petty monopoly, it is therefore enacted as follows:—

1. In the subdivision of townships which may consist partly of prairie and partly of timber land, such of the sections or subdivisions of sections containing Islands, Belts, or other tracts of timber, shall be subdivided into such number of wood lots of not less than ten, and not more than twenty acres in each lot, as will afford, so far as the extent of wood land in the township may permit, one such wood lot to each quarter section prairie farm in such township.

2. Provided, that neither the sections and parts of sections in each township vested in the Hudson's Bay Company by this Act nor those sections set apart herein for schools, shall be subject in any way to the operation of the next preceding sub-clause.

3. The division of such wood lots shall be by squared posts, numbered from one upwards, marked with a marking iron, and planted in the section lines bounding the timber tract so laid out; and each wood lot shall front on a section road allowance.

4. Provided, that in case an Island or Belt of timber be found in the survey of any township to lie in a quarter section or several quarter sections, but in such manner that no single quarter section shall have more of such timber than twenty-five acres, such timber shall be taken to be appurtenant to such quarter section or quarter sections, and shall not be further divided into wood lots.

5. The Local Agent, as settlers shall apply for homestead rights in the township, and in the same order as such applications shall be made, shall apportion to each quarter section so applied for, one of the adjacent wood lots, and such wood lot shall appertain to and form an addition to such grant, and shall be entered on the Local Agent's books and be returned by him as in connection therewith; and the wood lot set apart with any homestead quarter section shall be a free gift in connection with such homestead, and in addition thereto, and on such homestead claimant fulfilling all the requirements of this Act in that behalf, the patent for such quarter section shall also include such wood lot.

6. Provided that any homestead claimant, who, previous to the issue of the patent shall sell any of the timber on his claim or on the wood lot

appertaining to his claim, to saw mill proprietors or to any other than settlers for their own private use, shall be guilty of a trespass, and may be prosecuted therefor before a Justice of the Peace, and upon conviction thereof, shall be subject to a fine or imprisonment, or both; and further, such person shall forfeit his claim absolutely.

S.C. 1874 37 Victoria c. 19 s. 10(2)

10. The sub-section numbered one of the forty-sixth section of the said hereinbefore first cited Act is hereby amended by inserting the words "The Minister of the Interior may direct that" at the commencement of the said sub-section.

2. Sub-section five of the said forty-sixth section is hereby repealed, and the following is substituted for, and shall be read as the said sub-section five:—

> 5. The local agent, as settlers shall apply for homestead rights in the township, and in the same order as such applications shall be made, shall, if so requested, apportion to each quarter section so applied for, one of the adjacent wood lots, and such wood lot shall be paid for by the applicant at the rate of one dollar per acre, and shall be entered on the local agent's books and be returned by him as in connection with the homestead so entered; and on such homestead claimant fulfilling all the requirements of this Act in that behalf, a patent shall issue to him for such wood lot.

S.C. 1876 39 Victoria c. 19 s. 18

18. Whereas by the provisions of section ten of the Act of 1874, subsection five of section forty-six of the *Dominion Lands Act,* which provided for the apportionment of woodlots as free grants in connection with and in addition to homestead grants in certain cases, was repealed without reference to rights which might have been acquired under the same; and whereas it is expedient to protect such rights, it is hereby enacted, that any person to whom a wood-lot was apportioned in connection with a homestead under the provisions of the said sub-section five of section forty-six of the Act last mentioned, having duly fulfilled the conditions of such homestead grant required by the said Act, shall receive a patent for such wood-lot as a free grant, as provided in the said sub-section, the Act of 1874 to the contrary notwithstanding.

Timber for Homesteaders

C.R.C. 1889 c.98 ss. 21-25

21. Any occupant of a homestead quarter-section having no timber of his own may, upon application, obtain a permit to cut such quantity of building timber, fencing timber or fuel as he may require for use on his homestead, not exceeding the following:—

a) 1,800 lineal feet of building timber, no log to be over 12 inches at the [butt-end];

b) 400 roof poles;

c) 2,000 poplar fence-rails, no rail to exceed 5 inches at the [butt-end]

d) 30 cords of dry wood;

e) Burnt or fallen timber of a diameter up to seven inches inclusive, for fuel or fencing.

22. Should the house timber be sawn at a mill, payment for sawing must not be made by way of toll as the full quantity of lumber cut from the logs must be used on the permit-holder's homestead.

23. In order that mill owners may be able to give satisfactory evidence that saw logs or lumber found in their possession have been lawfully cut, they should require from settlers bringing timber to be sawn, proof that the same has not been cut on Dominion lands, or that it has been cut under a permit, which the settler should provide in order that its number, its date, and the name of the permittee may be noted by the mill owner. The latter should also record the quantity of such timber sawn by him, so that he may be in a position to duly protect himself should an account or return thereof be demanded by agents of the Department.

24. The applicant will require to pay an office fee of twenty-five cents before he can obtain a permit, but no dues will be charged for the timber or wood cut under and in accordance therewith.

25. Homesteaders whose farms may have thereon a supply of timber, or who are in possession of wood lots or other timbered lands, will not be granted a free permit.

O.C. 1 July 1898 (1734) ss. 20-24

Timber for Homesteaders

20. Any occupant of a homestead quarter-section having no timber of his own suitable for the purposes hereunder mentioned, may, providing he has not previously obtained a free allowance of timber, obtain a permit to cut such quantity of building timber, fencing timber or fuel as he may require for use on the land he owns and occupies, not exceeding the following:—

a) 3,000 lineal feet of building timber, no log to be over 12 inches at the butt end, unless the timber is cut from dry trees, in which case timber of any diameter may be taken.

Should the building timber be sawn at a mill, the permittee will be entitled to receive free of dues 6,750 feet, board measure, of lumber therefrom and no more, or in the proportion of 225 feet, board measure, to 100 lineal feet of timber manufactured.

b) 400 roof poles to be used for such purpose.

c) 500 fence posts, 7 feet long and not to exceed 5 inches at the small end.

21. Should the house timber be sawn at a mill, payments for sawing must not be made by way of a toll, as the full quantity of lumber cut from the logs must be used on the permit-holder's homestead.

22. In order that mill-owners may be able to give satisfactory evidence that saw-logs or lumber found in their possession have been lawfully cut, they shall require from settlers bringing timber to be sawn, proof that the same has not been cut on Dominion lands, or that it has been cut under a permit, which the settler should produce in order that its number, its date, and the name of the permittee may be noted by the mill-owner. The latter should also record the quantity of such timber sawn by him, so that he may be in a position to duly protect himself should an account or return thereof be demanded by agents of the Department.

23. The applicant will require to pay an office fee of twenty-five cents before he can obtain a permit, but no dues will be charged for the timber or wood cut under and in accordance therewith.

24. Homesteaders and all *bona fide* settlers whose farms may not have thereon a supply of timber, or who are not in possession of wood lots or other timbered lands, will be granted a free permit to take and cut dry fallen timber for their own use on their farms for fuel and fencing.

O.C. 17 February 1899

By Order in Council of the 17th of February, 1899, the regulations governing the granting of yearly licenses and permits to cut timber on Dominion lands in Manitoba, the North-west Territories, and within twenty miles upon either side of the Canadian Pacific Railway in the province of British Columbia, established by the Order in Council of the 1st July, 1898, were amended as follows:—

The following provisions shall be added to section 20 which provides for the issue of a free permit to a homesteader to cut a certain quantity of timber to be used on his land: "(d) 2,000 fence rails."

The provision in section 11 for the payment by actual settlers of dues at the rate of 12½ cents per cord for cordwood and rails made from dry standing timber shall be rescinded.

Section 24 which gives homesteaders and all *bona fide* settlers whose farms may not have thereon a supply of timber, a free permit to take and cut dry fallen timber for their own use on their farms for fuel and fencing shall be amended by leaving out the word "fallen."

O.C. 10 June 1907

By Order in Council of the 10th of June, 1907, in virtue of the provisions of the *Dominion Lands Act*, chapter 55 of the *Revised Statutes of Canada*, 1906, regulations governing the granting of yearly licenses and permits to cut timber upon Dominion lands established by an Order in Council of the 1st July, 1898, and subsequent orders in council, were amended so as to provide that permits may be granted without competition in the railway belt in the province of British Columbia, to settlers and others, to cut up to one hundred (100) cords of shingle bolts for sale upon payment in advance of dues at the rate of fifty cents per cord.

O.C. 25 March 1916 (678)

His Royal Highness the Governor General in Council is pleased to order and it is hereby ordered as follows:—

Section 42 of the Timber Regulations established by Order in Council of the 1st July, 1898, and subsequent Orders in Council, is hereby amended so as to provide that settlers and persons living in cities, towns and villages may obtain permits to cut up to 100 cords of wood for sale, on payment of dues at the rate of 25 cents per cord.

O.C. 29 March 1919 (673)

20. The licensee shall pay the following dues on timber cut upon his licensed berth:—

Sawn lumber of poplar	50c. per M ft. b.m.
Sawn lumber of other timber	75c. per M ft. b.m.
Lath	20c. per thousand
Shingles	25c. per thousand
Piling, cribbing, telegraph and telephone poles	1c. per lin. ft.
Railway ties 8ft. long, when hewn	4c. each

Railway ties 8 ft. long, when sawn	3c. each
Railway ties, each lineal foot over 8 ft. long	½c.
Shingle bolts cut within the Railway Belt in British Columbia	50c. per cord
Cordwood	25c. per cord
Pulpwood	40c. per cord
Fence posts (round) not exceeding 7 ft. long and 5 inch at top end	1c. each
Fence posts (split) notexceeding 7 ft. long and average of 5 in. at top end	¾c. each

And 10 per cent royalty dues on all other products of manufacture not enumerated, provided, however, the licensee will not be required to pay dues on slabs when sold for purposes of fuel or on sawdust.

a) Sawlogs cut on timber berths in Manitoba, Saskatchewan, Alberta, the Northwest Territories and the Peace River Tract in the Province of British Columbia controlled by the Dominien [*sic*] Government, shall be paid for on the product of manufacture thereof, and those cut within the Railway Belt of British Columbia on the feet board measure according to British Columbia log scale.

42. Permits to cut timber on available Dominion Lands, subject to the payment of the dues hereafter specified, may be granted without competition to actual settlers for their own use on their farm lands; to settlers and persons living in cities, towns and villages to cut up to 100 cords of cordwood for sale; and for the construction of public works:—

Cordwood of poplar	35 cts. per cord
Cordwood of other kinds of timber	50 cts. per cord
Pulpwood of poplar	40 cts. per cord
Pulpwood of other kinds of timber	60 cts. per cord
Fence rails of poplar not exceeding 5 in. at butt end	2 cts. each
Fence rails of other kinds of timber not exceeding 5 in. at butt end	3 cts. each
Fence posts (round) not exceeding 7 ft. long and 5 in. at top end	2 cts. each
Fence posts (split) not exceeding 7 ft. long and average of 5 in. at top end	1½ cts. each
Fence droppers not exceeding 5 ft. in length and 3 in. at butt end	½ cts. each
Roof poles	3 cts. each
Building logs of poplar	1 ct. per lin. ft.
Building logs, piling, cribbing, telegraph poles and telephone poles of timber other than poplar, 9 in. and over at butt end	2 cts. per lin. ft.
Building logs, piling, cribbing, telegraph poles and telephone poles less than 9 in. at butt end	1 ct. per lin. ft.
Shingles	30 cts. per M.
Lath	25 cts. per M.
Shingle bolts cut in the Railway Belt in the Province of British Columbia	75 cts. per cord
Railway ties 8 ft. long when hewn	8 cts. each

Railway ties 8 ft. long when sawn	6 cts. each
Railway ties each lineal foot over 8 ft. long	1 ct. per lin. ft.
Sawlogs of poplar	$1.50 per M. ft. b.m.
Sawlogs of pine, spruce, tamarack and other timber not enumerated	$2.50 per M. ft. b.m.

All other products of the forest not enumerated 15 per cent on selling price at point of shipment.

O.C. 23 April 1921 (1191)

42. Permits to cut timber on available Dominion lands, subject to the payment of the dues hereinafter specified, may be granted without competition to actual settlers for their own use on their farm lands; to settlers and persons living in cities, town[s] and villages, to cut up to 525 cords of cordwood for sale; and for the construction of public works in each permit year:—

Cordwood of poplar	50 c. per cord
Cordwood of other kinds of timber	75 c. per cord
Pulpwood of poplar	75 c. per cord
Pulpwood of other kinds of timber	$1 per cord
Fence rails of poplar not exceeding 5 in. at butt end	2 c. each
Fence rails of other kinds of timber not exceeding 5 in. at butt end	3 c. each
Fence posts (round) not exceeding 7 ft. long and 5 in. at top end	2 c. each
Fence posts (split) not exceeding 7 ft. long and average of 5 in. at top end	1½ c. each
Fence droppers not exceeding 5 ft. in length and 3 in. at butt end	½ c. each
Roof poles not exceeding 7 inches at butt end	3 c. each
Building logs of poplar	1 c. per lin. ft.
Building logs, and cribbing of timber other than poplar, 9 in. and over at butt end	2 c. per lin. ft.
Piling of timber other than poplar, 9 in. and over at butt end	3 c. per lin. ft.
Piling less than 9 in. at butt end	1½ per lin. ft.
Building logs, and cribbing less than 9 in. at butt end	1 c. per lin. ft.
Telegraph and telephone poles 15 percent *ad valorem* on actual sales money at point of shipment	
Shingles	50 c. per thousand
Lath	50 c. per thousand
Shingle bolts cut in the Railway Belt in the Province of British Columbia	$1 per cord
Railway ties 8 feet long	15 c. each
Railway ties, each lineal foot over 8 feet long	2 c. per lin. ft.
Sawlogs of poplar	$2 per M. feet B.M.
Sawlogs of pine, spruce, tamarack and other timber not enumerated	$3 per M. feet B.M.

All other products of the forest not enumerated 15 per cent on selling price at point of shipment.

O.C. 7 June 1922 (1180)

His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, is pleased to order that section 42 of the regulations governing the granting of yearly licenses and permits to cut timber on Dominion Lands in the Provinces of Manitoba, Saskatchewan, Alberta, within twenty miles on either side of the Canadian Pacific Railway in the Province of British Columbia, and the tract of three and half million acres controlled by the Government of the Dominion in the Peace River District in the Province of British Columbia, established by Order in Council of the 12th April, 1921, shall be and the same is hereby amended so as to provide for the issue of permits to actual settlers, without competition, to cut dead timber for their own use on their farm lands, subject to dues at the rate of $1.50 per thousand feet, board measure.

O.C. 20 November 1923 (2307)

His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, is pleased to amend the regulations governing the granting of yearly licenses and permits to cut timber on Dominion Lands in Manitoba, Saskatchewan, Alberta, within twenty miles on either side of the Canadian Pacific Railway in the Province of British Columbia, and the tract of three and a half million acres controlled by the Government of the Dominion in the Peace River District, in the Province of British Columbia, established by Order in Council of the 12th April, 1921, and subsequent Orders in Council, and the same are hereby amended as follows:

> The dues chargeable on cordwood cut under license or permit from fire-killed or dry timber, on and after the 1st October, 1923, are reduced to 25 cents per cord.
>
> Section 42 amended by providing that settlers and persons living in cities, towns and villages may obtain permits to cut up to 100 cords of cordwood and lath bolts for sale in each permit year, subject to dues at $1.00 per cord on the lath bolts and the regular rate of dues on the cordwood; and that permits may be granted to owners and operators of mines to cut timber for the erection of buildings actually required in the operation of their claims, and for such quantity of cordwood as is actually required for fuel in operating the mines, subject to ordinary permit dues.

O.C. 26 March 1924 (459) ss. 50-52

50. Any homestead settler having no timber on his homestead or lands owned by him that could be used to meet his requirements, and who has not obtained a free allowance of timber from Dominion lands, may, providing application is made within five years of date of his homestead entry, obtain a permit to cut such quantity of building and fencing timber and dry fuel as he may require for use on his homestead, not exceeding the following:—

> a) 3,000 lineal feet of building timber, no log to be over 12 inches at the butt end unless the timber is cut from dry trees, in which case timber of any diameter may be taken.
>
> Should the building timber be sawn at a mill, the permittee will be entitled to receive, free of dues, 9,250 feet board measure of lumber therefrom, and no more.
>
> b) 400 roof poles to be used for such purposes.

c) 500 fence posts 7 feet long, and not to exceed 5 inches at the small end.

d) 2,000 fence rails.

e) 30 cords dry wood.

51. Should the house timber be sawn at a mill, payment for sawing must not be made by way of toll, as the full quantity of lumber cut from the logs must be used on the permit holder's homestead.

52. Any settler in Manitoba, Saskatchewan or Alberta, who has lost his dwelling or other building by accidental fire, whether caused by prairie or bush fires or in any other way not due to his own carelessness, may obtain a free permit to cut, for the replacing of such buildings, the quantity of timber to which a homesteader is entitled free of dues under the provisions of section 50 of these regulations.

O.C. 8 April 1924 (558)

His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, is pleased to amend the regulations governing the granting of yearly licenses and permits to cut timber on Dominion Lands in Manitoba, Saskatchewan, Alberta, within twenty miles of either side of the Canadian Pacific Railway in the Province of British Columbia, and the tract of three and a half million acres controlled by the Government of the Dominion in the Peace River District in the Province of British Columbia, established by Order in Council for the 26th March, 1924, and the same are hereby amended as follows:

Clause e) of Section 50 of the said regulations is hereby rescinded;

The following clause is hereby added to Section 48 of the said regulations:

> Settlers residing on farm lands not containing timber, or who are not the owners of timbered lands, cutting fuel for their own use from dead or fire-killed timber, the quantity not to exceed 15 cords in a permit year.

RANCHING AND GRAZING

From Closed to Open Leases and Back Again: 1882 to 1914

S.C. 1872 35 Victoria c. 23 s. 34

34. Leases of unoccupied Dominion lands may be granted for grazing purposes to any person or persons whomsoever being *bona fide* settlers in the vicinity of the land sought to be leased, at such rent and for such term as the Secretary of State shall deem expedient; but every such lease of grazing land shall, among other things, contain a condition making such land liable for settlement or for sale as hereinbefore provided by this Act, at any time during the term of such lease, without compensation, save by a proportionate deduction of rent, and a further condition by which the Secretary of State may, on giving the lessee six months notice, cancel the lease at any time during the term.

S.C. 1876 39 Victoria c. 19 s.15

15. Section thirty-four of the said *Dominion Lands Act*, is hereby repealed, and the following substituted therefor:—

> 34. The Governor in Council may, from time to time, grant leases of unoccupied Dominion Lands for grazing purposes to any person or persons whomsoever, for such term of years and at such rent in each case as may be deemed expedient; but every such lease shall, among other things,

contain a condition by which, if it should thereafter be thought expedient by the Minister of the Interior to offer the land covered thereby for settlement, the said Minister may, on giving the lessee two years notice, cancel the lease at any time during the term.

S.C. 1881 44 Victoria c. 16 s.35

35. The Governor in Council may, from time to time, grant leases of unoccupied Dominion lands for grazing purposes to any person or persons whomsoever, for such term of years and at such rent in each case as may be deemed expedient; but every such lease shall, among other things, contain a condition by which, if it should thereafter be thought, by the Governor in Council, to be in the public interest to open the land, covered by such lease, for settlement, or to terminate the said lease for any reason, the Minister of the Interior may, on giving the lessee two years' notice, cancel the said lease at any time during the term.

O.C. 23 December 1881

16. Under the authority of the Act 44 Victoria, chapter 16, leases of tracts for grazing purposes may be granted on the following conditions:—

a) Such leases to be for a period of not exceeding twenty-one years, and no single lease shall cover a greater area than 100,000 acres.

b) In surveyed territory, the land embraced by the lease shall be described in townships and sections: in unsurveyed territory, the party to whom a lease may be promised shall, before the issue of the lease, cause a survey of the tract to be made, at his own expense, by a Dominion Lands Surveyor, under instructions from the Surveyor-General; and the plan and field notes of such survey shall be deposited on record in the Department of the Interior.

c) The lessee shall pay an annual rental at the rate of $10 for every 10,000 acres embraced by his lease, and shall, within three years from the granting of the lease, place on the tract one head of cattle for every ten acres of land embraced by the lease, and shall during its term maintain cattle thereon in at least that proportion.

d) After placing the prescribed number of cattle upon the tract leased, the lessee may purchase land within his leasehold for a home farm and *corral*, paying therefor $2.00 per acre in cash.

e. Failure to fulfil any of the conditions of his lease shall subject the lessee to forfeiture thereof.

17. When two or more parties apply for a grazing lease of the same land, tenders shall be invited, and the lease shall be granted to the party offering the highest premium therefor in addition to the rental: the said premium to be paid before the issue of the lease.

O.C. 7 April 1887

By an Order in Council of the 7th April, 1887, the Regulations, approved by Order in Council of the 23rd December, 1881, governing the leasing for grazing purposes of public lands in Manitoba and the North-West Territories, were amended to the effect that such leases shall henceforth only be issued after public competition, except in case of actual settlers.

C.R.C. 1889 c. 97 ss. 11-19

11. Leases of grazing lands in Manitoba and the North-West Territories, and within the railway belt in the Province of British Columbia, may be granted

only after public competition, except in the case of an actual settler, to whom may be leased, without public competition, a tract of land not to exceed four sections in area and to be in the vicinity of the settler's residence. Leases shall be for a period of not exceeding twenty-one years, and no single lease shall cover a greater area than 100,000 acres.

12. Parties tendering will be required to state the sum or bonus per acre which they will pay in addition to the ground rent; and each tender must be forwarded in a sealed envelope and be accompanied by an accepted cheque for the amount of such bonus, payable to the order of the Deputy of the Minister of the Interior. No tender by telegraph will be accepted. The lease will be awarded to the party offering the highest bonus therefor.

13. In surveyed territory, the land embraced by the lease shall be described in townships and sections. In unsurveyed territory, if required by the Minister of the Interior the party to whom the lease may be promised shall, before the issue of the lease, cause a survey of the tract to be made at his own expense, by a Dominion Land Surveyor, under instructions from the Surveyor General, and the plan and field notes of such survey shall be deposited on record in the Department of the Interior.

14. a) The lessee shall pay an annual rental at the rate of $20.00 for every 1,000 acres covered by his lease, and shall within each of the three years from the date of the Order in Council granting the lease, place upon the tract of land leased not less than one third of the whole amount of the stock which is required to be placed upon the said tract, namely, one head of cattle for every twenty acres of land covered by the lease, but not to exceed that number, and shall during the rest of its term maintain cattle thereon in that proportion.

b) And he shall from time to time, as required by the Minister of the Interior, furnish returns of the amount of stock owned by him.

15. After placing the prescribed number of cattle upon the tract leased, the lessee may purchase a reasonable area of land within his leasehold for a home farm and corral, paying therefor at the price per acre in cash obtaining in the class in which the lands so purchased may be situated. This shall not affect the rights of lessees acquired prior to the date hereof to purchase the said home farm and corral at a less price per acre.

16. The whole or any part of any lands authorized to be leased subsequently to the 12th day of January, 1886, unless otherwise provided in any lease thereof, shall be open to homestead and pre-emption entry, or to be purchased from the Government at the price obtaining in the class in which the lands are situate, upon application being made therefor, and as entries are granted or purchases effected, the lease shall become void in respect of the land so entered or purchased.

17. A lessee of grazing lands shall not be permitted to homestead lands within any tract leased to another for grazing purposes.

18. Failure to fulfil any of the conditions of his lease shall subject the lessee to the forfeiture thereof.

19. Whether he be a lessee or not a lessee, no person shall be allowed to place sheep upon Dominion lands in Manitoba and the North-West Territories without permission in writing being first had and obtained from the Minister of the Interior. No person shall be allowed to graze stock of any kind on the public domain, without the consent of the Minister of the Interior being

first obtained. The grazing of same will render them liable to seizure and forfeiture by the owner.

O.C. 12 October 1892

On a Report dated 4th October, 1892, from the Minister of the Interior stating that, during the latter part of the month of December, 1891, and the early part of the month of January, 1892, he caused a circular to be addressed to the lessees of grazing ranches in the North-West Territories of which a copy thereto attached, suggesting that for the reasons set out in this circular it would be advisable that the lessee should meet at an early date, discuss the proposition outlined in the circular as to the cancellation of the existing leases and the substitution for them of leases on the new form, and appoint a small deputation to visit Ottawa and talk the matter over with the Minister of the Interior.

The Minister further represents that at various times and on various occasions since the issue of the circular in question, he personally met and discussed with deputations of lease holders and individual lessees the whole question involved, and after mature consideration he (the Minister) has come to the conclusion that it would be in the public interest, and would tend to the settlement of this question in the speediest manner consistent with the interest involved to notify all holders of leases under the form hereto annexed and marked "A" which is the form used by the Department of the Interior from the time the system was initiated up to the 17th day of September, 1889,—who are not in arrears for rent, have properly stocked their ranches, and have otherwise complied with the conditions of their leases, that the leases held by them will be terminated on and after the 31st day of December, 1896, that they will then or at any time during the interval, be permitted to purchase not in excess of ten per cent, of their leasehold at the rate of $2.00 per acre; and that from and after the said 31st day of December, 1896, it will be open to them if they see fit to accept leases for the unexpired portion of the term of twenty-one years, of such of the lands now held by them as may be agreed upon between them and the Government upon the form herewith marked "B," commonly known as the new form of lease.

The Minister considers that this would give such of the lease holders as may conclude that they cannot satisfactorily carry on their business under the new form of lease, ample opportunity of winding up their affairs.

The Minister recommends that he be authorized to communicate in this sense with all parties interested.

The Minister states that he is convinced that with the opportunity for consideration and reflection, which will thus be afforded them the majority of the Companies will conclude not to give up the business at the end of the four years, but will find that it can be successfully and profitably continued under the new form of lease, until the period when in the natural course of events the progress of settlement will have rendered the pursuit of the cattle business in the its present form undesirable both from the point of view of the investor and the Government.

The Committee, concurring in the above, submit the same for Your Excellency's approval.

S.C. 1897 60-61 Victoria c.29 s.6

6. Clause fifty of the said Act is hereby repealed, and the following substituted therefor:—

50. When so authorized by the Governor in Council, leases of unoccupied Dominion land may be granted by the Minister, for grazing purposes, to any person, for such term of years, for such rent and upon such other terms and conditions, as in that behalf are set forth in regulations authorized from time to time by the Governor in Council.

O.C. 1 September 1903

By Order in Council of the 1st September, 1903, the regulations established by Order in Council dated 17th September, 1899 [*sic*], as amended by subsequent Orders in Council governing the leasing for grazing purposes of Dominion lands in Manitoba, the North-west Territories and in the railway belt in the province of British Columbia, were suspended and until otherwise ordered further leases are not to be issued.

O.C. 15 February 1905

By Order in Council of the 15th of February, 1905, the following regulations for the administration of grazing lands in Manitoba and the North-west Territories were made and adopted:—

Regulations

1. Leases of grazing lands in Manitoba and the North-west Territories shall be for a period of not exceeding twenty-one years and no single lease shall cover a greater area than 100,000 acres.

2. In surveyed territory the land embraced by the lease shall be described in townships and sections. In unsurveyed territory, if required by the Minister of the Interior, the party to whom the lease may be promised shall, before the issue of the lease, cause a survey of the tract to be made at his own expense by a Dominion land surveyor under instructions from the surveyor general, and the plan and field notes of such survey shall be deposited on record in the Department of the Interior.

3. a) The lessee shall pay an annual rental at the rate of two cents for every acre covered by his lease, and shall within each of the three years from the date of the lease place upon the tract of land leased not less than one-third of the whole number of the stock which is required to be placed upon the said tract, namely, one head of cattle or five head of sheep for every twenty acres of land covered by the lease, but not to exceed that number, and shall, during the rest of its term maintain cattle thereon in that proportion, unless otherwise determined by the Minister of the Interior;

b) and he shall, when required by the Minister of the Interior, furnish returns of the number of stock owned by him.

4. After placing the prescribed number of cattle or sheep upon the tract leased, the lessee may purchase a reasonable area of land within his leasehold for a home farm and corral, but not to exceed ten per cent of the total area of the leasehold.

5. a) The whole or any part of any lands authorized to be leased unless otherwise provided in any lease thereof, shall be open to homestead and pre-emption entry or to be purchased from the Government at the price obtaining in the class in which the lands are situate, upon application being made therefor, and as entries are granted or purchases effected, the lease shall become void in respect of the land so entered or purchased.

b) The Minister of the Interior may, however, upon the receipt of an application for a lease for grazing purposes of lands claimed to be unfit for agricultural purposes, withdraw the lands covered thereby from homestead entry or sale pending an inspection thereof, and on being satisfied that any or all of the lands included in the application are not fit for agricultural purposes, he may lease such lands and withdraw the same from homestead entry or sale during the term of the lease.

6. A lessee of grazing lands shall not be permitted to homestead lands within any tract leased to another for grazing purposes.

7. Failure to fulfil any of the conditions of his lease shall subject the lessee to forfeiture thereof.

8. No person shall be allowed to place sheep on Dominion lands in Manitoba and the North-west Territories, except in such tracts as have already been or may at any future time be specially set apart for that purpose by the Minister of the Interior.

9. The lease shall be in such form as is determined by the Minister of the Interior in accordance with these regulations.

O.C. 27 July 1905

By Order in Council of the 27th of July, 1905, the regulations for the issue of leases of Dominion lands for grazing purposes, approved by Order in Council dated 15th February, 1905, were rescinded.

The following regulations for the issue of leases of Dominion lands in the provinces of Alberta and Saskatchewan, were made and adopted:—

Regulations

1. The issue of leases shall be confined to lands within the following described territory:—

Comprising that portion of the province of Alberta which lies to the south of the north boundary of townships numbered 28.

Comprising that portion of the province of Saskatchewan described as follows, viz:—Commencing at the intersection of the north boundary of township 28 with the fourth meridian, thence easterly following the north boundary of townships numbered 28 to the west boundary of the South Saskatchewan River, thence southerly along the said west boundary of the South Saskatchewan River to a point opposite Aiktow Creek, thence across the said South Saskatchewan River to the mouth of the said Aiktow Creek, thence up the southerly side of Aiktow Creek and across the divide between said creek and the Qu'Appelle River to the head of the said Qu'Appelle River, thence down the southerly side of the Qu'Appelle River to its intersection with the third meridian, thence southerly along the said third meridian to the north boundary of township 12, thence easterly along the north boundary of townships numbered 12 to the west boundary of range 24 thence southerly along the said west boundary of range 24 to the north boundary of township 8, thence easterly along the north boundary of townships numbered 8 to the west boundary of range 18, thence southerly along the said west boundary of range 18, to the north boundary of township 4, thence easterly along the north boundary of townships numbered 4, to the west boundary of range 15, thence southerly along the west boundary of range 15 to the international boundary, thence westerly along the international boundary to the fourth meridian, thence northerly along the fourth meridian to the point of commencement.

2. The term of a lease shall be for a period not exceeding twenty-one years and no lease shall cover a greater area than 100,000 acres.

3. Should the Governor in Council at any time during the term of the lease think it to be in the public interest to withdraw the lands therein described, or any portion thereof, or to cancel the lease for any reason, the Minister of the Interior may, on giving the lessee two years' notice, withdraw such lands or cancel the lease.

4. The lessee shall pay an annual rental at the rate of two cents for every acre covered by his lease, and shall within each of the three years from the date of the lease, place upon the tract of land leased not less than one-third of the whole number of the stock which is required to be placed upon the said tract, namely, one head of cattle or five head of sheep for every twenty acres of land covered by the lease, and shall, during the rest of its term, maintain cattle thereon in that proportion. The lessee will be required to furnish a return to the Department of the Interior on the 1st of July in each year showing the number of head of stock on the leasehold owned by the lessee. Should the number of stock on the leasehold, after the expiration of the period in which the lessee is required under these regulations to have the requisite number of stock placed thereon, be less than the number mentioned in this clause, the lessee shall be liable on receiving three months' notice to have withdrawn from his leasehold an area of twenty acres for each head of stock less than the number which the regulations provide he shall place on the leasehold.

5. Before a lease is issued it will be necessary for the applicant to either homestead land or purchase 160 acres within the tract applied for at the rate of $3.00 per acre as a home farm and corral, and the lessee will be required to place his buildings thereon within one year from the date of the lease.

6. If any of the lands leased produces hay, the lessee is not entitled to use, sell or barter the same, but the lessee may, upon applying to the agent of Dominion lands in whose district the land is situated, obtain in accordance with the regulations in that behalf, the first permit free of dues, to cut so much of the hay as the lessee actually requires for the use of his own stock, provided the rental of the leasehold has been paid. The agent may then issue permits to other applicants and the permittee will be entitled to enter upon the leasehold to cut and remove the quantity of hay specified in their permits, subject, however, to such conditions as the Minister of the Interior may think proper for the protection of the lessee.

7. Leases can only be acquired by owners of stock, and if the leasehold has been secured by misrepresentation as to the ownership of stock, or other material facts, the lease may be summarily cancelled.

8. Before an application can be considered it will be necessary for the applicant to post up notices of his application in at least four conspicuous places on the lands applied for, and also in the nearest post office for thirty days, and make a statutory declaration of having done so. Leases may be granted for an area of land at the rate of sixty acres for each head of stock, or five sheep, of which the applicant is the owner at the time he makes his application, and a statutory declaration must be furnished as to the number of stock and the owner thereof. A report shall also be obtained by the Department of the Interior from the inspector of ranches that upon inspec-

tion of the land applied for he found it unfit for agricultural purposes. He shall also report as to whether, and to what extent, the land is occupied, and, if so, by whom and what improvements, if any, there are upon it; the names of the owners of stock grazing within six miles of the land applied for; the number of stock owned by each, and the location of the owners' headquarters. That in case of dispute as to the land to be leased to each owner of stock, the decision of the Minister of the Interior shall be final.

9. The frontage of a leasehold on a lake, river or creek shall not exceed one mile for every four miles in depth.

10. The lessee will not be entitled to break or crop any portion of the leasehold.

11. No person shall be allowed to place sheep on Dominion lands except in such tracts as have already been or may at any future time be specially set apart for that purpose by the Minister of the Interior.

12. Failure to fulfil any of the conditions of his lease shall subject the lessee to forfeiture thereof.

13. The lease shall be in such form as may be determined by the Minister of the Interior, in accordance with these regulations.

O.C. 15 March 1907

By Order in Council of the 15th of March, 1907, it was ordered that notwithstanding anything contained in the regulations governing the granting of leases of Dominion lands for grazing purposes, established by the Order in Council of the 27th July, 1905, the Minister of the Interior may grant a lessee of grazing lands permission to cultivate and crop such portion of his leasehold as may be considered necessary for the growing of fodder for his stock, provided, however, that no such permission shall be granted for the raising of crops for any other purpose than providing fodder for the stock owned by the lessee, and that the lessee shall not dispose of any fodder so raised by barter or sale without the consent of the Minister of the Interior.

O.C. 2 June 1909

By Order in Council of the 2nd of June, 1909, section 5 of the grazing regulations, established by Order in Council of the 27th July, 1905, and subsequent Orders in Council, was rescinded and the following substituted therefor:—

> An applicant for a grazing lease covering four sections or over may purchase 160 acres within or adjoining the tract applied for at the rate of $3 per acre as a home farm and corral, and the lessee will be required to place his buildings thereon within one year from the date of the lease.

Ranching and Agricultural Lands: 1914 to 1930

S.C. 1908 7-8 Edward VII c. 20 s. 33

33. Lands suitable for grazing but not adapted for agriculture, or hay or marsh lands, may be sold or leased under regulations made by the Governor in Council.

O.C. 16 February 1914

By Order in Council of the 16th of February, 1914, the grazing regulations established by Order in Council of the 27th July, 1905, and subsequent amending Orders in Council, were rescinded and the following substituted in lieu thereof:—

1. Grazing leases of vacant Dominion lands unfit for agricultural purposes in the provinces of Manitoba, Saskatchewan and Alberta, and in the Peace River tract in the province of British Columbia controlled by the Dominion Government, may be issued to British subjects by birth, naturalization or repatriation, covering a period of ten years. The lands covered shall not be open to settlement during the continuance of the lease. Companies making application for leases must show that they are incorporated under the laws of the Dominion of Canada, or under the laws of any province of the Dominion. In the granting of leases, preference shall be given applicants who own adjoining lands.

2. No person or company shall be permitted to hold under lease, by original grant or by assignment, more than 12,000 acres.

3. Upon an application being received for a grazing lease, accompanied by the rental for six months, the lands applied for shall be withdrawn from homestead and pre-emption entry, pending inspection, and until such time as it is decided to grant or refuse a lease. No application will be entertained unless accompanied by the rental, as herein stated.

4. The holder of an unpatented homestead, which upon examination by the inspector of ranches, or other officer of the department is found unfit for agricultural purposes, may sell his improvements to a rancher and be granted the right to re-enter for other land, and the purchaser may apply for a lease of the abandoned homestead.

5. Should the inspector of ranches on making examination of a tract of land applied for find that owing to conflicting interests in the lands, the granting of a lease to the applicant, or any other person, would be an injustice to others who had been using the lands and that it would be impracticable to make a satisfactory division of the lands affected among the interested persons, such lands, if unfit for agricultural purposes, may be withdrawn from entry and reserved for public grazing purposes.

6. The lessee shall, within each of the three years from the date of the lease, place upon the tract of land leased not less than one-third of the whole number of stock which is required to be placed upon the leasehold, namely, one head of cattle, or five head of sheep for every thirty acres of land covered by the lease, and shall, during the rest of its term, maintain stock thereon in that proportion. If, upon inspection by an officer of the department, it is found that the leasehold, will support more stock than the number stated herein the Minister may require the lessee to place additional stock on the lands.

7. It is required that at least twenty-five per cent of the stock maintained on any leasehold shall be breeding stock.

8. The lessee shall, within one year from the date of the execution of the lease on behalf of the department furnish a statutory declaration showing that he is the owner of and has the required number of stock on the leasehold, and non-compliance with this requirement shall render his lease subject to summary cancellation. The lessee will be required, thereafter, to furnish a sworn return to the department on the 1st July in each year, and at such other times as the Minister may decide, showing the number of head of stock on the leasehold.

9. The lessee shall be required to enclose his leasehold by a suitable fence.

10. The lessee shall pay an annual rental at the rate of 2 cents per acre for every acre covered by his lease, payable half-yearly in advance.

11. Before an application can be granted, it will be necessary for the applicant to post up notices of his application in at least four different conspicuous places on the lands applied for, and also in the nearest post office for thirty days, and make a statutory declaration of having done so. The necessary forms will be supplied by the department. A report shall also be obtained by the department from the inspector of ranches, or such other officer as may be authorized to make the inspection, that the lands applied for, upon examination, are found unfit for agricultural purposes.

12. Upon the expiration of the term of the lease, should the Minister of the Interior decide to re-lease the lands covered, the holder of the lease shall have the prior right to a renewal lease on complying with the regulations.

13. A lease cannot be assigned without the consent of the Minister, but in no case shall an assignment be allowed unless the lessee has complied with clause 6 of these regulations by placing upon the leasehold not less than one-third of the whole number of the stock which is required to be placed thereon, and has furnished a statutory declaration showing that he has done so and that the said stock is owned by him.

14. The holder of a lease acquired under regulations prior to the coming into force of these regulations, provided his lease has at least ten years to run, may relinquish his lease and acquire one under these regulations on the condition that the lands affected, upon inspection of an officer of the department, are found to be unfit for agricultural purposes. In the event of his leasehold comprising more than 12,000 acres, this will not operate against the exchange, but he shall not be permitted to acquire any additional territory under lease.

15. The lessee of four sections or more may construct buildings and corrals, and make other improvements on a half-section of his leasehold, but shall not be deemed to have any vested rights in such lands, but in the improvements only. In the event of the principle of leasing being abandoned, the lessee shall have the prior right to purchase the half-section on which his improvements are located at not less than $3 per acre.

16. The lessee may graze sheep on his leasehold, provided the sheep are confined within a sheep-tight fence.

17. The lessee shall be entitled to the hay on his leasehold, but shall not be permitted to sell or barter the same.

18. The frontage of a leasehold on a lake, river, or creek, shall not exceed one mile for every four miles in depth.

19. The lessee may cultivate any portion of his leasehold for the purpose of growing winter feed for his stock, but shall not have the right to dispose of any such feed by barter or sale.

20. Leases shall be issued subject to the right of the province to take for road purposes, without compensation to the lessee, such land as may be required, not exceeding two and one-half per centum of the total area, provided the value of any improvements found on the land so required for road purposes shall be paid for by the said province, the said value to be fixed by the Minister of the Interior.

21. The lease shall be in such form, and shall contain such provisions, not inconsistent with these regulations, as may be determined by the Minister.

22. The lease shall be subject to cancellation upon the failure of the lessee to fulfil any of the conditions thereof.

23. If a lease has been secured by misrepresentation of any material facts, it may be summarily cancelled.

24. The word "cattle" means bulls, oxen, cows, and horses at least one year old.

O.C. 19 April 1919 (823)

His Excellency the Governor in Council, on the recommendation of the Minister of the Interior, is pleased to order and it is hereby ordered that clauses 1, 2, 13 and 14 of the regulations governing the granting of grazing leases in the Provinces of Manitoba, Saskatchewan and Alberta, and in the Peace River tract in the Province of British Columbia, established by Order in Council of the 16th February, 1914, shall be and the same are hereby rescinded, and the following clauses substituted in lieu thereof:—

1. Grazing leases of vacant Dominion lands unfit for agricultural purposes in the Provinces of Manitoba, Saskatchewan and Alberta, and in the Peace River tract in the Province of British Columbia controlled by the Dominion Government, or assignments thereof, may be issued or registered, respectively, to British subjects by birth, naturalization or repatriation, covering a period of ten years. The lands covered shall not be open to settlement during the continuance of the lease. Companies making application for leases, or seeking to acquire leases by assignment, must show that they are incorporated under the laws of the Dominion of Canada, or under the laws of any province of the Dominion, and that the president, vice-president and a majority of the directors are British subjects, and that the company is in no way controlled by an alien, or aliens, or by an alien corporation or corporations. In the granting of leases, preference shall be given applicants who own adjoining lands.

2. No person or company shall be permitted to hold under lease, by original grant or by assignment, more than 12,000 acres, save where such additional acreage was acquired under regulations prior to the 16th February, 1914.

13. A lease cannot be assigned without the consent of the Minister, but in no case shall an assignment be allowed unless the lessee has complied with clause (6) of these regulations by placing upon the leasehold not less than one-third of the whole number of the stock which is required to be placed thereon, and has furnished a statutory declaration showing that he has done so and that the said stock is owned by him, but this clause shall not be applicable to leaseholds brought under these regulations in accordance with the next following clause, except as to the consent to the assignment by the Minister.

14. The holder of a lease acquired under regulations prior to the coming into force of these regulations, provided his lease has at least ten years to run, may relinquish his lease and acquire one under these regulations on the condition that the lands affected, upon inspection by an officer of the Department, are found unfit for agricultural purposes. In the event of his leasehold comprising more than 12,000 acres, this will not operate against the exchange nor against any assignment of the leasehold thus acquired.

The lessee, however, shall not be permitted to acquire any additional territory under these regulations.

O.C. 23 August 1919 (1723)

Whereas the Minister of the Interior Reports as follows:—

Urgent representations have been made to the Department of the Interior that owing to the severe drought conditions that have prevailed in the past two or three seasons in the southern parts of the Prairie Provinces and in the northern states, many small stock-raisers of those districts, who possess from fifty to five hundred head of stock are now desirous, if suitable conditions are obtainable, of moving to lands in the northern parts of the said provinces where better grazing facilities are offered.

There are large areas of land in these northern prairie districts, which, because of remoteness from settlement, liability to frost, or swampy or gravelly character of soil, are not adapted to agricultural production, but which are nevertheless suitable to grazing; and it is evident that it would be promoting the best interests of this region as a whole if ranchers who wish to establish themselves permanently upon such areas and who have the proper qualifications, are permitted to migrate and settle there; though in no case should such an arrangement be allowed to interfere with any promising movement to settle farmers on lands suited to agricultural production.

Under the present grazing regulations, leases are limited to a term not exceeding ten years and to an area not larger than 12,000 acres, and leases may not be issued to persons who are not British subjects. However, ranchers of the kind desired would not move their herds and establish their homes in this northern country, where climatic conditions are such that they would be compelled to provide fodder for the winter months and to erect corrals and sheds for the protection of their stock unless greater permanency of tenure were offered. Moreover, in many cases, owing to the sparsity of vegetation, a much larger area is required per head of stock than in the more southerly districts.

While preference should in each case be given to British subjects, the opportunity should not be lost of securing as settlers other persons who are by experience and ability qualified to establish these ranches, providing applications from British subjects so qualified are not received in sufficient numbers.

Therefore the Governor General in Council is pleased to amend and doth hereby amend the regulations respecting grazing lands in the provinces of Manitoba, Saskatchewan and Alberta and in the Peace River Tract in British Columbia, established by Order in Council of 16th February, 1914, by the addition of the following section thereto:

25-1. Notwithstanding anything in these regulations, leases for grazing purposes maybe granted of vacant Dominion Lands unfit for agricultural purposes and situate more than twenty-five miles from the margin of settled areas as may be determined from time to time by the Minister, to persons who satisfy the Minister that they are by experience and otherwise qualified to carry out the requirements of such leases.

25-2. Such leases may be for terms not exceeding twenty years, and shall be renewable for such periods and subject to such conditions as the regulations in force at the time of expiration provide.

25-3. In determining the area to be granted under any such lease the character of the land and of the vegetation thereon and the number and kind of stock to be kept, shall be taken into consideration, such case to be decided on its merits.

25-4. The number of stock required to be placed upon the leasehold shall be specified in the lease, and not less than one-third of the full number shall be so placed in each of the three years following the date of the lease. The lease shall also specify what buildings are required to be constructed and what other improvements are required to be carried out by the lessee.

25-5. Leases may provide that if there is actual residence upon the leasehold for a continuous period of five years and satisfactory compliance with all the requirements of the lease, and of these regulations, the lessee may, after the termination of such period, purchase, at a price per acre to be agreed upon, such part of the land included within his leasehold as, in the opinion of the Minister, is required for a dwelling place and for keeping his herds during the winter and spring months.

25-6. Opportunity for applying for leases under this section shall first be given to British subjects; but after any such applications have been considered and acted upon, the Minister may grant leases to other persons fulfilling the required qualifications.

25-7. Leases issued under this section shall be subject to the provisions of other sections of these regulations in so far as they are applicable and are not inconsistent with this section.

25-8. This section shall only apply to lands north of the Saskatchewan River.

O.C. 4 November 1920 (2677)

His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, is pleased to amend and doth hereby amend the regulations providing for the issue of grazing leases in the Provinces of Manitoba, Saskatchewan and Alberta, and in the Peace River Tract in the Province of British Columbia, established by Order in Council of the 16th February, 1914, and subsequent Orders in Council, so as to provide that all leases issued thereunder shall contain the following clause:—

> Should the Governor in Council, at any time during the term of the lease, think it to be in the public interest to withdraw any portion of the lands herein described or to cancel the lease, the Minister of the Interior may, on giving the lessee three years' notice, withdraw such lands or cancel the lease.

O.C. 3 October 1921 (3714)

Whereas the Minister of the Interior reports that by Order in Council of the 4th November, 1920, the grazing regulations applicable to Dominion Lands in the Provinces of Manitoba, Saskatchewan and Alberta, and in the Peace River Block, in the Province of British Columbia, established by Order in Council of the 16th February, 1914, and subsequent Orders in Council, were amended so as to provide that all leases issued thereafter should contain the following clause:

> Should the Governor in Council, at any time during the term of the lease, think it to be in the public interest to withdraw any portion of the lands herein described or to cancel the lease, the Minister of the Interior may, on

giving the lessee three years' notice, withdraw such lands or cancel the lease.

And whereas it has been represented that a period of three years is not sufficient to enable a rancher, who receives notice of cancellation, to bring his stock to maturity or to dispose of same to advantage;

Therefor, His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, is pleased to order as follows:

The Regulation above quoted is hereby amended by substituting four years for three years and the Minister of the Interior is hereby authorized to extend the benefits of this regulation to lessees in whose leases the three years clause has been embodied.

O.C. 12 April 1922 (786)

His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, is pleased to order and it is hereby ordered, that the grazing regulations applicable to the Provinces of Manitoba, Saskatchewan and Alberta, and the Peace River Tract in the Province of British Columbia, controlled by the Dominion Government, established by Order in Council of the 16th February, 1914, and subsequent Orders in Council, be rescinded, and that the attached regulations be substituted therefor.

Rodolphe Boudreau
Clerk of the Privy Council

1. a) Grazing leases of vacant Dominion Lands unfit for agricultural purposes in the Provinces of Manitoba, Saskatchewan and Alberta, and in the Peace River Tract in the Province of British Columbia, controlled by the Dominion Government, may be issued to British subjects by birth, naturalization and repatriation covering a period of ten years. The lands covered shall not be open to sale, homestead entry or other disposition during the continuance of the lease. Companies making application for leases must show that they are incorporated under the laws of of the Dominion of Canada, or under the laws of any Province of the Dominion, and that the President, Vice-President, and a majority of the directors are British subjects. In the granting of leases, preference shall be given applicants who own adjoining lands.

b) Grazing leases may also be granted on vacant Dominion Lands, irrespective of the quality of the soil, located over forty miles from a railway, on the condition that the lease may be cancelled, or any portion of the leasehold withdrawn from the operation of the lease, on giving the lessee one year's notice in writing, after the lease has been held three years and after a railway has been graded and the rails laid within forty miles of the leasehold.

c) Grazing leases may be granted on vacant Dominion Lands, unfit for agricultural purposes, which are unsurveyed, but which are located sufficiently close to surveyed territory to enable the Department of the Interior to describe the same by section, township and range. In unsurveyed districts, situated a considerable distance from subdivided territory such leases may only be granted provided the applicant will have a survey of the tract made at his own expense by a Dominion Land Surveyor, under instructions from the Surveyor General, the plan and field notes of such survey to be deposited on record in the Department of the Interior.

2. No person or company shall acquire under lease under these regulations by original grant or by assignment more than 12,000 acres. A person or company already holding lands under lease acquired under prior regulations shall only be entitled to acquire under these regulations, by original grant or by assignment, a sufficient area to make the total acreage held by such person or company 12,000 acres. In the same way a person or company holding lands under lease under these regulations shall only be entitled to acquire by assignment a sufficient area of lands acquired under prior regulations, to make the total acreage held 12,000 acres. This will not operate against a person or company acquiring by assignment a leasehold originally acquired under prior regulations which comprises more than 12,000 acres.

3. All applications for a grazing lease must be made on the official form direct to the Agent of Dominion Lands for the district in which the lands applied for are situated, and must be accompanied by an amount equal to the rental for six months. Upon such application being received by the Agent, the lands applied for, if available, shall be withdrawn from sale, homestead entry or other disposition until such time as it is decided to grant or refuse a lease. Forms of application may be secured from any agent of Dominion Lands upon request.

4. Before an application can be granted, it will be necessary for the applicant to post up notices of his application in at least four different conspicuous places on the lands applied for, and also in the nearest post office thereto, for thirty days, and make a statutory declaration of having done so at the end of that period. The necessary forms will be supplied by the Department. A report shall also be obtained by the Department from an Appraiser of Grazing Lands, with a view to ascertaining whether or not the lands applied for, upon examination, are unfit for agricultural purposes.

5. Should the Appraiser of Grazing Lands on making examination of a tract of land applied for find that owing to conflicting interest in the lands, the granting of a lease to the applicant, or to any other person, would be an injustice to others and that it would be impracticable to make a satisfactory division of the lands affected among the interest persons, such lands, if unfit for agricultural purposes, may be withdrawn from entry or sale, and reserved for public grazing purposes, provided the area is less than three sections.

6. The lessee shall, within each of the three years from the date of the lease, place upon the tract of land leased not less than one-third of the whole number of stock, owned by him, which is required to be placed on the leasehold, namely, one head of cattle or five sheep for every thirty acres covered by the lease, and shall during the rest of its term maintain stock thereon owned by him in the proportion of one head of cattle or five sheep for every thirty acres of land leased. If upon inspection by an Appraiser of Grazing Lands it is found that the leasehold will support more stock than the number stated herein, the Minister of the Interior may require the lessee to place additional stock on the leasehold. The lessee must not graze stock other than his own on the leasehold. The word "cattle" means bulls, oxen, cows and horses at least one year old.

7. It is required that at least twenty-five per cent of the stock maintained on any leasehold shall be breeding stock.

8. The lessee shall, within one year from the date of execution of the lease on behalf of the department, furnish a statutory declaration showing that he

is the owner of and has the required number of stock on the leasehold, and noncompliance with this requirement shall render his lease subject to summary cancellation. The lessee will be required, thereafter, to furnish a sworn return to the Department on the 1st of July, in each year, and at such other times as the Department may decide, showing the number of head of stock on the leasehold.

9. The lessee shall pay an annual rental at the rate of 2 cents per acre for every acre covered by the lease, payable half-yearly in advance.

10. Upon the expiration of the term of the lease, should the Minister of the Interior decide to re-lease the lands covered, the former holder of the lease shall have the prior right to a renewal lease on complying with the regulations in force at that time.

11. A lease, whether granted under these or prior regulations, cannot be assigned without the consent of the Minister. A lessee desiring to assign his lease must pay all outstanding rental and furnish the Department with a properly executed, unconditional assignment of the lease, a registration fee of $3.00 and evidence from the proper official of the Provincial Government that all Provincial taxes on the lands covered by the assignment have been paid. If the assignee is an individual a statutory declaration from him that he is a British subject must be furnished, while if the assignee is an incorporated company a statutory declaration from the President, Secretary or Manager, that the company is incorporated under the laws of the Dominion of Canada or under the law of a Province of the Dominion and that that President, Vice-President and a majority of the directors of the company are British subjects, must be furnished. In no case shall an assignment be allowed unless the lessee has complied with Clauses 6) and 8) of these regulations by placing upon the leasehold not less than one-third of the whole number of stock, which is required to be placed thereon and has furnished a statutory declaration showing that he has done so, and the said stock was owned by him, but this condition shall not be applicable to leases granted under prior regulations or to leases brought under these regulations in accordance with the next following clause.

12. The holder of a lease acquired under former regulations which has less than five years to run, irrespective of the area contained therein, may relinquish his lease and acquire one under these regulations, on the conditions that, upon inspection by an Appraiser of Grazing Lands, the lands affected are found to be unfit for agricultural purposes, and that the lessee is utilizing the leasehold to its full extent for stock-grazing purposes.

13. Should the Minister of the Interior, at any time during the term of a lease, think it to be in the public interest to withdraw the whole or any portion of the lands included therein, provided such lands are required in connection with any system of irrigation works or for sale under the irrigation system, he may, on giving the lessee three years' notice, withdraw such lands or cancel the lease; but any improvements owned by the lessee on the lands so withdrawn may be removed by him, or he shall be entitled to compensation therefor, the amount of such compensation to be decided by the Department of the Interior.

14. If any lease is cancelled or expires and the land is re-leased for grazing purposes other than to the former lessee, the Department of the Interior shall collect from the person acquiring the lease, the value of any ranch buildings, fences, wells or other legitimate improvements required in

connection with ranching operations which may be on the lands at the time such lands are re-leased, the said value to be fixed by the Department. The amount so collected shall be paid upon application to the former lessee after deducting any amount for which he may be indebted to the Department of the Interior, or to the Provincial Government for taxes. The former lessee shall, however, with the permission of the Department, have the option of removing any improvements owned by him, which may be on the leasehold at the time his lease is cancelled or expires.

15. The lessee of four sections or more may construct buildings and corrals and make other improvements on a half-section of his leasehold, but shall not be deemed to have any vested rights in such land, but in the improvements only. In the event of the Department discontinuing the principle of granting grazing leases on Dominion Lands the lessee shall have the prior right to purchase the half-section on which his improvements are located at a price to be fixed by the Minister, of not less that $5.00 per acre

16. The lessee shall be entitled to the hay on his leasehold, but shall not be permitted to sell or barter the same.

17. The frontage of a leasehold on a lake, river or creek, shall not exceed one mile for every four miles in depth, except in cases where upon inspection it is found that the granting of such a leasehold would not be detrimental to the interests of other ranchers or settlers in the district.

18. The lessee may cultivate any portion of his leasehold for the purpose of growing winter feed for his stock, but shall not have the right to dispose of any such feed by barter or sale.

19. Leases shall be issued subject to the right of the Province to take for road purposes, without compensation to the lessees, such land as may be required, not exceeding tow and one-half per centum of the total area (in the Peace River Tract in the Province of British Columbia the area to be taken shall not exceed 5 per centum of the total area), provided the value of any improvements found on the land so required for road purposes shall be paid for by the said Province, the said value to be fixed by the Minister of the Interior.

20. The lease shall be in such form and shall contain such provisions, not inconsistent with these regulations, as may be determined by the Minister.

21. The lease shall be subject to cancellation upon the failure of the lessee to fulfil any of the conditions thereof.

22. An office fee of $5.00 will be charged for the issue of a lease.

23. If a lease has been secured by misrepresentation of any material facts, it may be summarily cancelled.

24. Any notice, demand or other communication required under these regulations may be validly given and served by the Controller of the Timber and Grazing Lands Branch of the Department of the Interior.

Community Grazing

When a tract of land unfit for agricultural purposes, which is compact in form and comprises three sections or more, becomes available for grazing either through the cancellation of a grazing lease or otherwise, the Provincial Government, if considered advisable by the Minister of the Interior, may be given an opportunity to acquire a lease thereof for community grazing purposes, covering a period of ten years, and subject to rental at the rate of not more than 2 cents per acre per annum.

O.C. 7 February 1925 (191)

His Excellency the Governor General in Council is pleased to authorize and doth hereby authorize the Minister of the Interior to issue twenty-one year grazing laeses on vacant Dominion Lands unfit for agricultural purposes in the Province of Saskatchewan, in districts which are not suitable for farming, and also renewal twenty-one year leases covering lands in said districts now held under lease, on condition that, upon inspection by an officer of the Department of the Interior, the lands affected are found to be unfit for agricultural purposes, and that the lessee is utilizing the leasehold to its full extent for stock-grazing purposes.

O.C. 23 April 1925 (605)

His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, is pleased to order that Clauses 2 and 15 of the Regulations governing grazing lands in the Provinces of Manitoba, Saskatchewan, Alberta and in the Peace River Tract in the Province of British Columbia, established by Order in Council of the 12th April, 1922, and subsequent Orders in Council, shall be and the same are hereby amended to read as follows:

> 2. No person or company shall acquire under lease under these regulations by original grant or by assignment, more than 25,000 acres.
>
> A person or company already holding lands under lease acquired under any prior regulations shall only be entitled to acquire under these regulations, by original grant or by assignment, a sufficient area to bring the total acreage held by such person or company to 25,000 acres.
>
> In the case of lands held under lease under the regulations established by Order in Council of February 16, 1914, and rescinded by Order in Council of April 12, 1922, a person or company shall only be entitled to acquire by assignment a sufficient area of such lands to bring the total acreage held by such person or company to 25,000 acres.
>
> In the case of leases held under regulations prior to February 16, 1914, such leases may be assigned irrespective of the area already held under lease by the assignee.
>
> In the case of any lease held under these or prior regulations where the leasehold comprises more than 25,000 acres, such lease may be assigned irrespective of the area thereof or of the area held by the assignee.
>
> 15. The lessee of four sections or more may construct buildings and corrals and make other improvements on 320 acres of his leasehold, not necessarily in one unit, but shall not be deemed to have any vested rights in such land, but in the improvements only. In the event of the department discontinuing the principle of granting grazing leases on Dominion Lands the lessee shall have the prior right to purchase the 320 acres on which his improvements are located at a price, to be fixed by the Minister, of not less than $5 per acre.

His Excellency the Governor General in Council is further pleased to order that the Minister of the Interior shall be and he is hereby authorized to issue 21 year grazing leases on vacant Dominion Lands unfit for agricultural purposes in the Province of Alberta, in districts which are not suitable for farming; and also renewal 21 year leases covering lands in said Districts now held under lease, on conditions that, upon inspection by an officer of the Department of the Interior, the lands affected are found to be unfit for agricultural purposes and that the lessee is utilizing the leasehold to its full extent for stock-grazing purposes.

O.C. 5 January 1926 (2226)

Whereas by Orders in Council dated the 7th February, 1925, and the 23rd April, 1925, P.C. 191 and P.C. 605 respectively, the Minister of the Interior was authorized to issue twenty-one year grazing leases on vacant Dominion Lands unfit for agricultural purposes in the Provinces of Saskatchewan and Alberta in districts which are not suitable for farming; and also renewal twenty-one year leases covering lands in said districts then held under lease on condition that, upon inspection by an officer of the Department of the Interior the lands affected were found to be unfit for agricultural purposes and that the lessee was utilizing the leasehold to its full extent for stock-grazing purposes.

And whereas the Minister of the Interior reports that some difficulty exists in the administration of the regulation as established by the said Orders in Council;

Therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of the Interior, is pleased to amend the said regulations by cancelling the provisions that the tracts affected must be located in a district not suitable for farming and substituting therefor the provision that its granting of such leases will not injuriously affect the interest of any *bona fide* established industry in the district, and the same are hereby so amended accordingly.

THE LAND GRANT TO THE CALGARY AND EDMONTON RAILWAY

Incorporation of the Company

S.C. 1890 c.84 *An Act to incorporate the Calgary and Edmonton Railway Company*

Whereas a petition has been presented praying for the incorporation of a Company to construct and operate a railway as hereinafter set forth, and it is expedient to grant the prayer of the said petition: Therefor Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. James Ross, Edmund B. Osler, Herbert C. Hammond, William McKenzie, Nicol Kingsmill, Herbert S. Holt, and Donald D. Mann, together with such persons as become shareholders in the Company hereby incorporated, are hereby constituted a body corporate under the name of "The Calgary and Edmonton Railway Company," hereinafter called the Company.

2. The head office of the Company shall be in the city of Montreal.

3. The Company may lay out, construct and operate a railway of the gauge of four feet eight and one-half inches from a point on the line of the Canadian Pacific Railway Company, within the town of Calgary, to a point at or near Edmonton, with power to extend southerly to the International boundary between Canada and the United States, and northerly to the Peace River.

4. The persons mentioned by name in the first section of this Act are hereby constituted provisional directors of the Company.

5. The capital stock of the Company shall be one million dollars, and may be called up by the directors, from time to time as they deem necessary; but no one call shall exceed ten per cent on the shares subscribed.

6. The annual general meeting of the shareholders shall be held on the first Wednesday in October in each year.

7. At such meeting the subscribers for the capital stock assembled who have paid all calls due on their shares shall choose seven persons to be directors of the Company, one or more of whom may be paid directors of the Company.

8. The Company may issue bonds, debentures, or other securities, to the extent of twenty-five thousand dollars per mile of the railway and branches, and such bonds, debentures or other securities may be issued only in proportion to the length of railway constructed or under contract to be constructed.

9-1. The Company may enter into an agreement with the Canadian Pacific Railway Company for conveying or leasing to such company the railway of the Company hereby incorporated, in whole or in part, or any rights or powers acquired under this Act, as also the surveys, plans, works, plant, material, machinery and other property to it belonging, or for an amalgamation with such company, on such terms and conditions as are agreed upon, and subject to such restriction as the directors seem fit; provided that such agreement has been first sanctioned by two-thirds of the votes at a special general meeting of the shareholders duly called for the purpose of considering the same, —at which meeting shareholders representing at least two-thirds in value of the stock are present in person or represented by proxy,—and that it has also received the approval of the Governor in Council:

9-2. Such approval shall not be signified until after notice of the proposed application therefor has been published in the manner and for the time set forth in section two hundred and thirty-nine of the *Railway Act*, and also for a like period in one newspaper in each of the electoral districts through which the railway of the Company hereby incorporated runs, and in which a newspaper is published.

10. The Company may own, construct, charter, and navigate steamboats and other vessels upon the Red Deer, North Saskatchewan and Athabasca rivers, and upon other rivers and streams tributary thereto; and may construct, own, lease and use docks, warehouses, grain elevators and other works for facilitating transportation upon the said rivers or streams, or any of them.

The Land Subsidy

S.C. 1890 c.4 *An Act to authorize the granting of subsidies in land to certain Railway Companies*

[Assented to 16th May, 1890]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The Governor in Council may grant the subsidies in land hereinafter mentioned to the railway companies and towards the construction of the railways also hereinafter mentioned, that is to say:—

To the Calgary and Edmonton Railway Company, Dominion lands to an extent not exceeding six thousand four hundred acres for each mile of the Company's railway from Calgary to a point at or near Edmonton, on the

North Saskatchewan River, a distance of about one hundred and ninety miles; and also a grant of six thousand four hundred acres for each mile of the Company's railway from Calgary to a point on the international boundary between Canada and the United States, a distance of about one hundred and fifty miles;

2. The said grants and each of them may be made in aid of the construction of the said railways respectively, in the proportion and upon the conditions fixed by the Orders in Council made in respect thereof, and, except as to such conditions, the said grants shall be free grants, subject only to the payment by the grantees respectively of the cost of survey of the lands and incidental expenses at the rate of ten cents per acre in cash on the issue of the patents therefor.

O.C. 5 May 1890 (P.C.1119)

On a Memorandum dated 3rd May, 1890, from the Minister of the Interior, stating that by an Act passed during the present Session of Parliament "The Calgary and Edmonton Railway Company" is incorporated, with power to construct and operate a railway from Calgary to a point at or near Edmonton, and to extend the said Railway southerly to the International Boundary between Canada and the United States and northerly to the Peace River, and that the Company now makes application for a grant of Dominion Lands in aid of the construction of the said railway from the place of commencement to a point at or near Edmonton.

The Minister recommends, in view of the benefit which, in his opinion, the country would derive from the Railway in question, and being satisfied of the *bona fide* of the Company and its ability to successfully carry out the undertaking, that, subject to the approval of Parliament, a grant of Dominion Lands be made to the said "Calgary and Edmonton Railway Company" at the usual rate of 6,400 acres per mile of the line from Calgary to Edmonton, and from Calgary southerly to the International Boundary; the grant, however, to be subject to the following terms and conditions, viz:—

1. That the location, gauge and grades of the railway shall be submitted to and approved by the Minister of Railways and Canals and shall be according to specifications to be provided for in an agreement to be hereafter made between Her Majesty and the Company.

2. That the grant to the Company shall be made up out of the unoccupied and unclaimed odd-numbered sections at the disposal of the Government, or, if so agreed upon between the Company and the Government, out of alternate Townships (exclusive of School and Hudson's Bay Company's sections) within 12 miles of the line of railway on each side thereof, in so far as practicable, without interfering with any previous grants or reserves.

3. That any deficiency in the area shall be made up out of any available lands in the North-West Territories in the discretion of the Governor General in Council.

4. That the Company shall re-imburse to the Government the cost of the survey of the land and incidental expenses, the same being fixed at ten cents per acre.

5. That each *bona fide* settler found on land granted to the Company at the time such is earned, the Minister of the Interior being the judge in the event of any dispute as to the *bona fide* of such settler, shall have the right to

retain the land occupied by him to an extent not exceeding 320 acres, on paying the Company therefor at a rate not exceeding in any case $2.50 per acre, ¼ in cash and ¼ in each of the three succeeding years, with interest on the unpaid balances at a rate not exceeding six per cent per annum.

6. That the Company shall complete, adequately equip and have running to the satisfaction of the Government 50 miles of the railway from Calgary southward by the 1st of July, 1891, and shall complete, adequately equip and have running to the satisfaction of the Government not less than 50 miles in each year thereafter, until the portion of the line between Calgary and the International Boundary is completed; and with respect to the portion of their line between Calgary and Edmonton the Company shall have the same completed, adequately equipped and running to the satisfaction of the Government in accordance with an agreement to be hereafter entered into between Her Majesty and the Company.

7. That the first grant of 6,400 acres per mile shall be made to the Company on the completion to the satisfaction of the Government of the first fifty miles of the railway, and after that the grant shall be made on the completion of each section of ten miles.

8. That should the Company make default with respect to any of the provisions of clause 6, the lands to which they would have been entitled, but which may be unearned at the time they make such default, shall be absolutely forfeited, and all claim to the same on the part of the Company shall be void.

O.C. 22 May 1890 (P.C. 1276)

On a Memorandum dated 21st May, 1890, from the Minister of the Interior, stating that by an Order in Council of the 5th May, instant, authorizing, subject to the approval of Parliament, a grant of lands in aid of the construction of the Calgary and Edmonton Railway, it is provided that the Company shall complete, adequately equip, and have running to the satisfaction of the Government, fifty miles of the Railway from Calgary southward by the 1st of July, 1891, and shall complete, adequately equip and have running to the satisfaction of the Government, not less than fifty miles in each year thereafter until the portion of the line between Calgary and the International Boundary is completed. The terms of the subsidy, however, as approved by Parliament are that the time for the completion of the 1st fifty miles southward from Calgary shall be the 1st of November, 1891, instead of the 1st of July of that year, as mentioned in the above Order, and that the mileage to be constructed in each year thereafter until the portion of the line between Calgary and the International Boundary is completed is fixed at forty miles instead of fifty miles as provided in the above mentioned Order in Council of the 5th May, instant.

The Minister therefore recommends that the provisions of the said Order in Council of the 5th May as to the date of the completion of the first fifty miles of the Calgary and Edmonton Railway southward from Calgary and the mileage to be constructed in each year thereafter be amended so as to conform with the provisions of the Act granting a subsidy to this Company.

O.C. 27 June 1890 (P.C. 1655)

On a Report dated 23rd June, 1890, from the Minister of the Interior, stating that it is expedient in the public interest that the terms and conditions under which a free grant of Dominion Lands is to be made to the Calgary and Edmonton Railway Company should be amended.

The Minister therefore recommends that the Orders in Council of the 5th of May and 22nd of May, 1890, providing for such grant, be cancelled and the following substituted therefor, namely:—

That the sanction of Parliament having been obtained at its last Session, a free grant of Dominion Lands be made to the "Calgary and Edmonton Railway Company" at the usual rate of 6,400 acres per mile of the line from Calgary to a point on the North Saskatchewan at or near Edmonton and from Calgary southerly to the International Boundary, the grant to be subject to the following terms and conditions, viz:—

1. That the location, gauge and mileage of the railway shall be according to the contract and specifications furnished by the Department of Railways.

2. That the grant to the Company shall be made up out of the unoccupied and unclaimed odd-numbered sections at the disposal of the Government, or, if so agreed upon between the Company and the Government, out of alternate townships (exclusive of School and Hudson's Bay Company's sections) within 22 miles of the line of railway on each side thereof, in so far as practicable without interfering with any previous grants or reserves.

3. That any deficiency in the area shall be made up out of any available lands in the North-West Territories in the discretion of the Governor General in Council.

4. That the Company shall re-imburse to the Government the cost of the survey of the land and incidental expenses, the same being hereby fixed at ten cents per acre.

5. That each *bona fide* settler found to be on the 1st of July, 1890, in occupation of land granted to the Company, the Minister of the Interior being the judge in the event of any dispute as to the *bona fides* of such settler, shall have the right to retain the land occupied by him to an extent not exceeding 320 acres, on paying the Company therefor, at a rate not exceeding in any case $2.50 per acre, ¼ in cash and ¼ in each of the three succeeding years, with interest on the unpaid balances, at a rate not exceeding 6 per cent per annum.

6. That the Company shall complete, adequately equip and have running, to the satisfaction of the Government, 100 miles of their railway northerly from the Town of Calgary by the 1st of November, 1891, and shall complete the railway to a point on the North Saskatchewan River at or near Edmonton within two years thereafter; and with respect to that portion of the line between Calgary and the International Boundary, the first fifty miles southerly from Calgary shall be completed by the 1st of November, 1891; the second forty miles by the 1st of November, 1892; and to a point on the Old Man's River by the 1st of November, 1893; and the remainder of the line to the International Boundary shall be completed by a date to be fixed by the Governor in Council.

7. That the first grant at the rate of 6,400 acres per mile shall be made to the Company on the completion to the satisfaction of the Government of the first fifty miles of the railway, and after that the grant shall be made on the completion of each section of ten miles. Provided, however, that when the railway has been completed to the satisfaction of the Government to the points on the North Saskatchewan and the Old Man's River, respectively, as provided in the next preceding paragraph, the Company shall be entitled to the balance of the land grant according to the actual mileage constructed.

8. That, should the Company make default with respect to any of the provisions of Clause 6, the lands to which they would have been entitled, but which may be unearned at the time they make such default, shall be absolutely forfeited and all claim to the same on the part of the Company shall be void.

Construction

O.C. 16 March 1891 (P.C. 425)

On a Memorandum dated 12th March, 1891, from the Minister of Railways and Canals, representing that under date the 20th of December last the Chief Engineer of Government Railways reported on certain plans and profiles submitted by the Calgary and Edmonton Railway Company showing the proposed location of the portion of their subsidized railway extending from Red Deer River at Station 4,950 to a point, Station 9,823, about three miles from Edmonton and distant 188 miles from Calgary.

The Minister further represents that the report of the Chief Engineer, subject to decision as to the route to be adopted for the remaining distance to Edmonton, is favourable, and the Company having since obtained a location for such remaining distance satisfactory the Chief Engineer (as to which at an early date proper plans and profiles will be furnished, when it will be submitted for approval) the Minister recommends that the location referred to in the report of the Chief Engineer dated the 26th December last, namely from Red Deer River up to Station 9,823, be approved.

O.C. 25 June 1891 (P.C. 1415)

On a Memorandum dated 23rd June, 1891, from the Acting Minister of Railways and Canals, representing that under date the 1st June instant the Calgary and Edmonton Railway Company have submitted for approval plans and profiles showing the proposed location of the first 23 miles of the road running southwards from Calgary, such approval being required under the terms of the contract made with them on the 26th of December, 1890, for the execution of certain specified railway works subsidized in land by the Act 53 Victoria, Chap. 4.

The Minister, on the Report of the Chief Engineer of Government Railways to the effect that regarded as a Section of the Company's road, the location is satisfactory, recommends that the said plans and profiles be approved accordingly.

O.C. 14 July 1891 (P.C. 1626)

On a Report dated 8th July, 1891, from the Minister of the Interior, submitting herewith a letter dated 6th July instant, from the Secretary of the Department of Railways and Canals, covering one from the Chief Engineer of Government Railways dated the 16th June last, in regard to the result of the inspection of the first 100 miles of the Calgary and Edmonton Railway, a further letter dated the 7th July instant from the Secretary of the Department of Railways and Canals enclosing a Supplementary Report of the same date from the Chief Engineer of Government Railways upon the Calgary and Edmonton Railway, and a letter dated the 8th July instant from Mr. Nicol Kingsmill on behalf of the Company, asking that the first 100 miles of the railway may be accepted by the Government so as to entitle the Company to the land grant for so much of their line.

The Minister, with the concurrence of the Minister of Railways, recommends that, under all the circumstances, and as it would appear that not only the first 100 miles of the Railway is practically completed but that the remainder of the line to Edmonton is also almost completed, the existing contract with the Company be modified so that the land grant for the first 100 miles of the line may be conveyed to the Company immediately, upon their depositing to the credit of the Receiver General the sum of $4,270, as security for the performance of the work necessary to complete the first 100 miles of the line as estimated by the Chief Engineer of Government Railways.

O.C. 22 August 1891 (P.C. 1916)

On a Memorandum dated 20th August, 1891, from the Acting Minister of Railways and canals, representing that under date the 20th July, 1891, plans and profiles have been furnished by the Calgary and Edmonton Railway Company for approval showing a change in the location of the road from Station 8416 to Station 8648, on this also a final location of the portion from Station 9823 (up to which point the location was approved by an Order in Council of the 16th of March 1891) to Station 9972 + 20, which brings the road to a terminus on the top of the bank of the North Saskatchewan River within the settlement of Edmonton.

The Minister states that the Chief Engineer of Government Railways has reported to the effect that the said locations are satisfactory from an engineering point of view, and the Department of the Interior has under date the 4th of August instant advised to the effect that the terminal point selected comes within the provision of the *Land Subsidy Act* and the Order in Council in that regard, being a point "at or near Edmonton—" further the Act 53 Victoria, Chap. 5 authorizing the grant of an annual money subsidy for transport services, having called for a line "to a point on the North Saskatchewan River near Edmonton."

The Minister recommends that the said change of location between Stations 8416 and 8648 be approved, the Order in Council of the 16th of March, 1891, being amended to that effect, further that the location between Stations 9823 and 9972 + 20 be also approved, the terminal point there showing being accepted by the Government as the terminal point for the line as regards both the land subsidy and money subsidy granted by Parliament.

O.C. 1 September 1891 (P.C. 1970)

On a Memorandum dated the 15th August, 1891, from the Acting Minister of Railways and Canals, representing that under date the 4th August, 1891, plans and profiles have been furnished for approval showing the location of the portion of the subsidized line of the Calgary and Edmonton Railway Company extending from the end of the section, 23 miles South from Calgary already approved, for a further distance of 27¼ miles, namely, from Station 4188 to Station 2751.

The Minister, on the recommendation of the Chief Engineer of Government Railways, recommends that the said plans and profiles be approved in so far as they indicate the location of the road.

O.C. 5 September 1891 (P.C. 2114)

On a Report dated 2nd September, 1891, from the Minister of the Interior, stating that by an Order in Council of the 14th July, 1891, authority was given for the conveyance to the Calgary and Edmonton Railway Company, of the land grant for the first 100 miles of the line, on the Company depositing $4,270.00 to the credit of the Receiver General as security for the performance of the work necessary to complete the first 100 miles of the road, as estimated by the Chief Engineer of Government Railways, and that that sum of money has been deposited by the Company as required, and a further sum of $12,000.00 has been forwarded by the Company to the Department of Railways and Canals as a guarantee for the completion of the road to Edmonton.

The Minister further states that the Chief Engineer of Government Railways reports that the road between Calgary and Edmonton is completed with the exception of work to the value of $2,100.00

The Minister recommends in view of that report and of the fact that the Government now holds $16,270.00 of the Company's money as a guarantee for the completion of the road, that the land grant authorized by Parliament and the Order in Council of the 27th June, 1890, be conveyed to the Company for that portion of the line between Calgary and Edmonton, being 190 miles, at the rate of 6,400 acres per mile, equivalent to 1,216,000 acres.

The Contract for Transportation of Men, Supplies and Mail

S.C. 1890 c.5 *An Act respecting a certain agreement with the Calgary and Edmonton Railway Company*

1. In order to enable the Calgary and Edmonton Railway Company to construct so much of their railway as reaches from a point on the line of the Canadian Pacific Railway Company within the town of Calgary to a point on the North Saskatchewan River near Edmonton, the Governor in Council may enter into a contract with such Company for the transport of men, supplies, materials and mails for twenty years, and may pay for such services during the said term, eighty thousand dollars per annum, in manner following, that is to say: the sum of eighty thousand dollars to be paid annually on the construction of the railway from Calgary to a point on the North Saskatchewan River near Edmonton,—such payment to be computed from the date of the completion of the railway between such points: Provided that the Governor General in Council may order such sums to be paid in semi-annual instalments, and may permit the Company to assign the same by way of security for any bonds or securities which may be issued by the Company in respect of the Company's undertaking.

2. Such sums shall be paid out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada.

3. In order to facilitate such financial arrangements as will enable the Calgary and Edmonton Railway Company to commence and carry on the construction of the said railway without delay, that Company may agree with the Canadian Pacific Railway Company for the lease and operation of the said railway in whole or in part by the latter Company for such period and on such terms as are agreed upon by the respective boards of directors of both Companies, and such terms may include the right of the latter Company to purchase the said railway in whole or in part, and the stock, bonds and securities of the former Company, subject to the sanction of the former Company's shareholders as provided for in the ninth section of its Act of incorporation; and the Canadian Pacific Railway Company may enter into such an agreement subject to the approval of its shareholders, as provided for in the sixth section of an Act passed during the present session of Parliament, intituled *An Act to amend the Canadian Pacific Railway Act, 1889 and for other purposes;* and after any such agreement is completed, and

so sanctioned and approved, each of the parties to it may do whatever is necessary to give effect to it.

The Land Reserves

O.C. 19 November 1891 (P.C. 2787)

On a Report dated 18th November, 1891, from the Minister of the Interior, submitting the following:—

1. That by an Order of Your Excellency in Council dated the 27th June, 1890, provision was made for a grant of Dominion Lands to be made, on conditions therein set forth and stated, in aid of the construction of the Calgary and Edmonton Railway at the rate of 6,400 acres per mile of the line from Calgary to Edmonton, and from Calgary south to the International Boundary, the sanction of Parliament thereto having been obtained at the then next preceding session; and that a contract for the construction of the railway in conformity with the provisions of the said Order in Council, was duly made and entered into between the Company and the Government.

2. That one of the said conditions was that the grant to the Company should be made up of the unoccupied and unclaimed odd-numbered sections at the disposal of the Government, or, if so agreed upon between the Company and the Government, out of alternate townships (exclusive of School and Hudson's Bay Company's sections) with 22 miles of the line of railway on each side thereof, in so far as practicable without interfering with any previous grants or reserves; and the Company have elected to accept the first alternative mentioned, and have submitted to the Minister of the Interior a partial list of such sections, as enumerated in the Schedules hereto, marked A and B, comprising an area of about 841,309 acres, which the Minister of the Interior is having examined by the proper officers of his Department with a view to deciding to what extent they are available for the purposes of the land grant to which the Company may be found to be entitled.

3. That by Orders in Council, dated respectively the 14th July and the 5th September last, authority was granted to the Minister of the Interior, for the reasons therein stated, to convey to the Company the land grant applicable to the whole of the line between Calgary and Edmonton, 190 miles in length; and that the Company are now entitled to have conveyed to them, on payment of the cost of survey and incidental expenses, fixed at ten cents per acre, 1,216,000 acres being at the rate of 6,400 acres per mile of the 190 miles, subject to reduction for the present of one-third of that area, to be held by the Government as security under another contract made and entered into between the Government and the Company, in case the amount of money earned by the Company for the services to be performed as provided for by the said contract, should not amount to the sum of the subvention in money paid by the Government (a net area of 810,666.66 acres).

4. That it is advisable, since the full area to which the Company are already entitled cannot be found within the belt of 22 miles along the line of the road between Calgary and Edmonton, and since it is highly probable that within the time specified in the contract between the Company and the Government, namely, the 1st November, 1893, the land subsidy will be earned for the section of the line between Calgary and the Old Man River, a distance of about 110 miles, being about 704,000 acres (no portion of which, however, is to be withheld for the present as in the case of the section between Calgary and Edmonton), that provisions should be made by Your Excellency, in

accordance with the paragraph number three of the terms and conditions of the Order in Council of the 27th June, 1890, to make provision for making up to the Company out of available lands in the North-West Territories, any deficiency which may be found to exist in the area to which the Company will be entitled for the construction of that portion of their line lying between Edmonton and the Old Man River, a distance of about 300 miles in all, when the available odd-numbered sections within the belt of 22 miles on each side of the line described by the Order in Council of the 27th June, 1890, have been exhausted.

The Minister accordingly recommends, that in addition to the available odd-numbered sections in the belt of 22 miles one each side of the line of the Calgary and Edmonton Railway which, by the Order in Council of the 27th June, 1890, are set apart for the purposes of the land grant to that Railway, there be reserved and set apart, for the said purposes, the unoccupied and unclaimed odd-numbered sections in the several tracts of land coloured yellow upon the map hereto attached, the area of the odd-numbered sections in the tracts so coloured, and within the belt of 22 miles on each side of the Railway, making altogether about 1,520,640 acres; this area, however, being subject to reduction on account of lands therein which may be found to be not fairly fit for settlement, or which may have been disposed of or reserved prior to the date of the Order in Council of the 27th June, 1890.

The Minister further observes that there are tracts of land at present held under lease from the Government for grazing purposes in the vicinity of the line of the Railway, including an area of about 500,000 acres, in respect of which he recommends that, from time to time, as the leases under which these lands are held become inoperative, the Calgary and Edmonton Railway Company shall have the first right to the odd-numbered sections which may thus be placed at the disposal of the Government.

O.C. 8 January 1892 (P.C. 22)

On a Report dated 5th January, 1892, from the Minister of the Interior, stating, that, on the 29th of December, 1891, the Chief Engineer of Government Railways notified him that he had caused to be inspected the first section of the Calgary and Edmonton Railway extending from Calgary southward for a distance of (50) fifty miles, and that the road was found to be "constructed according to plan, profile, specification and contract, and is in very good condition and perfectly safe, with ordinary maintenance for public traffic at a speed of (25) twenty-five miles an hour;" and the Chief Engineer of Government Railways further recommended "that authority be given to operate this section of the road."

The Minister therefore recommends that, in accordance with the provisions in that behalf of the Order in Council of the 27th June, 1890, he be authorized to set apart for the purposes of the land grant to the said Railway Company out of the unoccupied and unclaimed odd-numbered sections at the disposal of the Government (exclusive of Hudson's Bay and School Sections) an area of 320,000 acres, being at the rate of 6,400 acres per mile for the first section of the railway southerly from Calgary a distance of (50) fifty miles, as certified to by the Chief Engineer of Government Railways, and that he be authorized to convey this area to the Company on their making the requisite payment for survey and incidental expense in connection with the same at the rate of ten cents per acre.

The Committee submit the above recommendation for Your Excellency's approval.

O.C. 7 December 1892 (P.C. 3067)

On a Report dated 19th November, 1892, from the Minister of the Interior, stating that by Order in Council of the 27th of June, 1890, provision was made for a grant of Dominion Lands on conditions therein specified to be made in aid of the construction of the Calgary and Edmonton Railway at the rate of 6,400 acres per mile of the line from Calgary to Edmonton, and from Calgary southward to the International Boundary, the sanction of Parliament thereto having been obtained at the then next preceding session, and that a contract for the construction of the railway in conformity with the provisions of the said Order in Council was duly made and entered into between the Company and the Government.

Upon a Report of the Chief Engineer of Government Railways that the portions of the line from Calgary northwards to Edmonton, 190 miles, and from Calgary southwards for a distance of 50 miles, had been completed, the conveyance to the Company of the Land grant applicable thereto under the terms of the Order in Council of the 27th of June, 1890, was authorized by the Orders in Council of the 5th of September, 1891, and the 8th of January, 1892, subject to the usual payment of 10 cents per acre to cover the cost of survey and incidental expenses.

The Minister further states that a communication has been received from the Department of Railways and Canals dated the 12th of November, 1892, stating that the Chief Engineer of Government Railways has reported that the section of the Calgary and Edmonton Railway between Calgary and the North Bank of the Old Man's River near Macleod, a distance of 104 10/100 miles is completed according to contract.

The Minister recommends, the conveyance to the Company of the land grant applicable to the first fifty miles of this section, from Calgary southwards having been authorized by the Order in Council of the 8th of January, 1892, before referred to, that he be authorized to act in accordance with the provisions in that behalf of the Order in Council of the 27th of June, 1890, to set apart for the purposes of a land grant to the said Railway Company, out of the unoccupied and unclaimed odd-numbered sections at the disposal of the Government (exclusive of Hudson's Bay and School Sections) an area of 346,240 acres being at the rate of 6,400 acres per mile for the remaining $54^{10}/_{100}$ miles of the Section of $104^{10}/_{100}$ miles between Calgary and the Old Man's River, certified to by the Chief Engineer of Government Railways as completed, and that he be authorized to convey this area to the Company on their making the requisite payment of 10 cents per acre for survey fees and incidental expenses.

O.C. 8 July 1893 (P.C. 1979)

On a Report dated 7th of July, 1893, from the Minister of the Interior, stating that by an Order in Council dated 27th of June, 1890, provision was made for a grant of 6,400 acres of land per mile in aid of the building of the Calgary and Edmonton Railway, from Calgary northward to Edmonton, and from Calgary southward to the International Boundary Line.

The Minister further states that the Chief Engineer of Government Railways reports that the Company have completed and placed in running order to his satisfaction the line from Calgary to Edmonton, a distance of 190 miles, and from Calgary southward to the north bank of the Old Man's River, a distance of 104.10 miles, making a total mileage completed of 294.10 miles, which would entitle the Company to a grant of 1,882,240 acres of land.

The Minister further states that the Order in Council of 27th June, 1890, provided that the land grant to the Company should consist of the unoccupied and unclaimed odd-numbered sections at the disposal of the Government within a belt 22 miles wide on either side of the line of said railway.

It was, however, found that owing to the fact of the line of the Calgary and Edmonton Railway passing for a considerable distance through the main line belt of the Canadian Pacific Railway, and for a still greater distance through the reserve north of the 52nd parallel of latitude, the odd-numbered sections in which had been previously reserved for the Canadian Pacific Railway, there would not be a sufficient area of land in the odd-numbered sections within the 22-mile belt to satisfy the claims of the Company. In view of this fact, the Company submitted two schedules A and B showing lands outside the 22-mile belt, but comparatively contiguous to the line, the odd-numbered sections in which they desired to have reserved for purposes of their land grant, and the odd-numbered sections embraced in these schedules, comprising an area of about 841,309 acres, were accordingly reserved by Order in Council of 19th November, 1891. A further area of 679,331 acres, making in all 1,520,640 acres, was also reserved by the same Order in Council, but this area is subject to reduction on account of land which may be found not fairly fit for settlement or which may have been otherwise disposed of. With the object of making up the balance of the 1,882,240 acres to which the Company are entitled, the Company on the 27th of February, 1892, submitted a further schedule marked C, and again on the 13th April, 1893, an appendix to the said schedule C showing lands which they desire to have reserved. These two schedules have been checked by the proper officers of the Department of the Interior, and the lands not available, or previously disposed of having been eliminated therefrom, they are found to embrace an area of 182,231.89 acres.

The Minister submits copies of this revised schedule C and the appendix thereto, and he recommends that the lands enumerated therein be reserved for the purposes of the land grant to the Calgary and Edmonton Railway Company.

Selection of the Land Subsidy

O.C.27 November 1894 (P.C. 3470)

On a Report, dated 15th November, 1894, from the Minister of the Interior, submitting that by an Order in Council dated 27th June, 1890, provision was made for a grant of 6,400 acres of land per mile, in aid of the building of the Calgary and Edmonton Railway, from Calgary northward to Edmonton, and southward to the International Boundary Line; and that the Chief Engineer of Government Railways has made a final report, based upon a careful measurement of the length of the line, that the Company have completed and placed in running order to his satisfaction, the line from Calgary to Edmonton, a distance of 190.97 miles, and from Calgary southward to the north bank of the Old Man's River, a distance of 104.10 miles, making a total mileage completed of 295.07 miles, which entitles the Company to a grant of 1,888,448 acres; and that, out of the area set apart for the purposes of their grant, the Company have selected and signified their readiness to accept an area of 849,848.80 acres, and this area has been found available for the purposes mentioned.

The Minister states that by the agreement entered into between Her Majesty and the Company, dated 21st June, 1890, the Government undertook to pay to the Company $80,000 per annum, for twenty years, for services to be performed on that portion of their line between Calgary and Edmonton, on the terms and according to the rates specified in the agreement, and it was provided that, by way of indemnity, in case the amount earned by the Company for services performed under the contract, should not amount to $80,000 in any year, one-third of the land grant of the Company on the Calgary and Edmonton Section of the line, as earned from time to time being an area of 407,402 acres, should be retained and held by the Government, to secure the repayment of any such deficiency. It was furthermore understood, and verbally agreed between the Hon. Mr. Dewdney, when Minister of the Interior, and the Company that the area to be retained should be selected from out of the odd-numbered sections of the two tiers of townships lying along the International Boundary, between the 4th Meridian and the South Branch of the Milk River.

The Minister recommends that he be authorized to enter into a written agreement with the Company (the form of which shall be subject to approval by the Minister of Justice), which shall give force and effect to this verbal understanding between his predecessor and the Company.

The Minister further states that there will still, however, be due to the Company an approximate area of 631,197.20 acres. To partially provide for this deficiency, the Company have submitted three schedules, and signified their readiness to accept the lands set forth therein as a portion of their land grant. The first of these Schedules is entitled Appendix No. 2 to Schedule C., and the other are called Schedules D. and E, respectively; and copies of them are hereto attached. These Schedules, having been revised in the Department of the Interior, are found to contain together an available area of 107,089.30 acres.

The Minister also states that a further area of 43,711.60 acres, within the territory reserved for the Company consisting of Sections surrendered by the Stewart and Walrond Ranche Companies, has likewise become available for the purposes of the Company's land subsidy. Out of this area they have expressed their willingness to accept, at the present time, 18,133.07 acres, and this area is embraced in a Schedule marked F., a copy of which is hereto appended.

The Minister accordingly recommends that he be authorized to convey to the Calgary and Edmonton Railway Company, as a portion of the land grant, the lands embraced in the annexed schedules—Appendix No. 2 to Schedule C., and Schedules D. E. and F. embracing a total area of 125,222.37 acres.

The Minister adds that the Company's account with the Government in relation to the land grant will then stand thus:—

	Acres
Total area to which the Company are entitled	1,888,448.00
Area already scheduled by Order in Council and authorized to be conveyed to the Company	849,848.80
Area included in the schedules hereto attached	125,222.37
Area within the two Townships along the International	

Boundary to be retained under the agreement of the 21st June, 1890	407,402.00
Leaving still to be selected and scheduled	505,974.83

O.C. 16 October 1895 (P.C. 2964)

The Committee of the Privy Council have had under consideration a Report, hereto attached, dated 2nd October, 1895, from the Minister of the Interior, advising of the conveyance of certain lands therein mentioned to the Calgary and Edmonton Railway Company.

The Committee, concurring in the said Report, advise that the lands embraced in Schedules H, J and K, thereto attached, covering a total area of 215,474.22 acres, be conveyed to the Calgary and Edmonton Railway Company, as a portion of their land grant.

With P.C. No. 2964—1895; Ref. 390,915 on 234,347 (No. 3).

Department of the Interior, Canada
Ottawa, 2nd October, 1895

Memorandum

To His Excellency
The Governor General In Council

The undersigned has the honour to report that by an Order of Your Excellency in Council dated 27th June, 1890, provision was made for a grant of 6,400 acres of land per mile in aid of the building of the Calgary and Edmonton Railway, from Calgary northward to Edmonton and southward to the International Boundary line. The Chief Engineer of Government Railways has reported that he has made a final measurement of the length of the Company's line which they have completed and placed in running order to his satisfaction, and he states that the distance from Calgary to Edmonton is 190.97 miles and from Calgary southward to the North Bank of the Old Man's River 104.10 miles, making a total mileage completed of 295.07 miles, which entitles the Company to a grant of 1,888,448 acres.

Out of the area set apart for the purposes of their land grant, the Company have selected and signified their readiness to accept an area of 975,071.17 acres, and this area has been found available for the purposes mentioned and confirmed to the Company by Order of Your Excellency in Council. By the agreement entered into between Her Majesty and the Company dated 21st June, 1890, the Government undertook to pay to the Company $80,000.00 per annum for twenty years, for services to be performed on that portion of their line between Calgary and Edmonton, on the terms and according to the rates specified in the agreement, and it was provided that by way of indemnity in case the amount earned by the Company for services performed under the contract should not amount to $80,000.00 in any year, one-third of the land grant of the Company on the Calgary and Edmonton section of the line as earned from time to time, being an area of 407,402 acres, should be retained and held by the Government to secure the repayment of any such deficiency, and under this agreement (which was confirmed by Your Excellency in Council) it was arranged that that area to be retained should be selected from out of the odd-numbered sections of the two tiers of townships lying along the International Boundary, between the 4th Meridian and the South Branch of the Milk River.

There will still however be due to the Company an area of 505,975.63 acres. To partially provide for this deficiency the Company have submitted two Schedules marked H, and J, and have signified their readiness to accept the lands set forth therein as a portion of their land grant. These schedules, having been revised in the Department, are found to contain together 207,690.72 acres, and copies of the same are hereto attached. A third Schedule marked K, showing odd-sections surrendered by the Cochrane Ranche Company is also attached hereto, containing an area of 7,783.50 acres, which the Company have expressed their willingness to accept.

The undersigned therefore recommends that he be authorized to convey to the Calgary and Edmonton Railway Company, as a portion of their land grant, the lands embraced in Schedules H, J, and K, covering a total area of 215,474.22 acres.

The Company's account with the Government in relation to the land grant will then stand thus:—

	Acres
Total area to which the Company is entitled	1,888,448.00
Area already scheduled by Order in Council and authorized to be conveyed to the Company	975,071.17
Area included in the schedules hereto attached	215,474.22
Area within the two Townships along the International Boundary to be retained under the agreement of the 21st June, 1890	407,402.00
Leaving still to be selected and scheduled	290,500.61

O.C. 23 February 1897 (P.C. 365)

On a Report dated 6th February, 1897, from the Minister of the Interior, stating that under the Act 53 Victoria, Chap. 4, and the Order in Council of the 27th of June, 1890, a subsidy of Dominion Lands, at the rate of 6,400 acres per mile, was authorized to be granted to the Calgary and Edmonton Railway Company, under certain terms and conditions specified in the said Order in Council, in aid of the construction of a railway from Calgary, northward to a point on the North Saskatchewan River, at or near the town of Edmonton, and from Calgary, southward to the International Boundary.

The Minister further states that the Chief Engineer of Government Railways having reported that the Company had completed and had in operation to his satisfaction the Railway for Calgary to Edmonton, a distance of 190.97 miles and from Calgary southward to the North bank of the Old Man's River, a distance of 104.10 miles, or a total distance of 295.07 miles, the Company became entitled to the land grant applicable to that mileage at the rate of 6,400 acres per mile—that is to say, 1,888,448 acres.

Of this area nearly 300,000 acres has yet to be selected and schedule to the Company by Order in Council.

The Minister observes that the greater portion of the lands already scheduled to the Company consists of odd-numbered sections only, but among the schedules of lands submitted by them and confirmed by Order in Council of the 16th October, 1895, is one, being Schedule "H," thereto, which comprises both the odd and even-numbered sections (exclusive however of Hudson's Bay Company's sections and School sections) in the tracts of land coloured yellow on the sketch herewith.

The selection in this instance was made "en bloc" for the reason that the lands in that part of the Territories are valuable chiefly for ranching purposes, and would therefore be more readily disposed of for such purposes in tracts than in isolated sections.

The Minister further observes that power to grant land subsidies to railway companies in this manner is given to the Governor in Council by the Act 56 Victoria, Chap. 4, which also provides that the School sections within such tracts may be included in such grants if an equal area of other public land of as nearly as possible the same value is first set apart in lieu thereof for the School Endowment.

A precedent for this was established in the case of the land grant of the North Western Coal and Navigation Company (now the Alberta Railway and Coal Company) in which a special Act of Parliament was obtained (49 Victoria, Chap. 12) to enable the grant to be made in blocks of townships, including the School sections, other lands being selected in lieu thereof for the School Endowment. For the reasons which led to this legislation being sought it was considered desirable to seek further legislation to enable the Governor in Council to make grants of land to other Railway Companies in this manner when the circumstances might seem to warrant it, and the Act 56 Victoria, Chap. 4 was obtained.

The Calgary and Edmonton Railway Company now ask that under the provisions of the said Act 56 Victoria, Chap. 4, the School lands coloured green within the tracts of land coloured yellow on the accompanying sketch be allotted to them as part of their land subsidy.

The Minister recommends, as other public lands of equal area and of as nearly as possible the same value have been selected in lieu of these lands for the School Endowment, the parcels so selected being adjacent to one another, and seeing no objection to the application of the Company being granted, that the following School Lands coloured green with the tracts of land coloured yellow on the annexed sketch be granted to the Calgary and Edmonton Railway Company as part of their subsidy under the provisions of the Act 56 Victoria, Chapter 4, that is to say:—Section 29, Township 2, Range 28 West of the 4th Meridian—640 acres; Section 29, Township 4, Range 27 West of the 4th Meridian—628 acres; Section 11, Township 4, Range 28 West of the 4th Meridian—640 acres; Section 11, Township 5, Range 27 West of the 4th Meridian—640 acres; and the 5 acres of Section 11, Township 5, Range 28 West of the 4th Meridian, lying East of the Waterton River; comprising in all an area of 2,553 acres.

O.C. 13 December 1897 (P.C. 3329)

On a Report, dated 25th October, 1897, from the Minister of the Interior, submitting that by an Order in Council dated 27th June, 1890, provision was made for a grant of land at the rate of 6,400 acres per mile in aid of the building of the Calgary and Edmonton Railway, from Calgary northward to Edmonton, and southward to the International Boundary Line. The Chief Engineer of Government Railways has reported that he has made a final measurement of the length of the Company's line, which they have completed and placed in running order to his satisfaction, and he states the distance from Calgary to Edmonton to be 190.97 miles and from Calgary southward to the north branch of the Old Man's River, 104.10 miles, making a total mileage completed of 295.07 miles, which entitles the Company to a grant of 1,888,448 acres.

The Minister states that out of the area set apart for the purposes of their land, the Company have selected and signified their readiness to accept an area of 1,185,439.98 acres, and the area has been found available for the purposes mentioned, and confirmed to the Company by Orders of Your Excellency in Council.

By the agreement entered into between Her Majesty and the Company, dated 21st June, 1890, the Government undertook to pay to the Company $80,000.00 a year for twenty years, for services to be performed on that portion of the line between Calgary and Edmonton, on the terms and according to the rates specified in the agreement, and it was provided that by way of indemnity, in case the amount earned by the Company for services performed under the contract should not amount to $80,000.00 in any year, one-third of the land grant to the Company on the Calgary and Edmonton section of the line, as earned from time to time, being an area of 407,402 acres, should be retained and held by the Government, to secure the repayment of any such deficiency, and under this agreement (which was confirmed by Your Excellency in Council) it was arranged that the area to be retianed should be selected from out of the odd-numbered sections of the two tiers of townships lying along the International Boundary between the 4th Meridian and the south branch of the Milk River.

There will still, however, be due to the Company an area of 295,606.02 acres. To partially provide for this deficiency, the Company have submitted four schedules, marked L., M., N. and O., and have signified their readiness to accept the land set forth in them as a portion of their land grant.

These Schedules having been revised in the Department of the Interior, are found to contain together an available area of 140,852.79 acres and copies of the said schedules are hereto attached.

The Minister, therefor, recommends that he be authorized to convey to the Calgary and Edmonton Railway Company, as a portion of their land grant, the lands embraced in Schedules L., M., N. and O.

The Minister adds that the Company's account with the Government in relation to their land grant will then stand thus:

		Acres
Total area to which the Company is entitled		1,888,448.00
Area already scheduled by Orders in Council and authorized to be conveyed to the Company	1,185,439.98	
Area in Schedules L., M., N. and O., hereto attached	140,852.79	
Area within the two Townships along the International Boundary to be held under the agreement of the 21st June, 1890	407,402.00	
Total		1,733,694.77
Leaving still to be selected and scheduled		154,753.23

O.C. 10 February 1899 (P.C. 216)

On a Report, dated 21st January, 1899, from the Minister of the Interior, submitting that by an Order of the Governor General in Council, dated 27th June, 1890, provision was made for a grant of land at the rate of 6,400 acres per mile in aid of the building of the Calgary and Edmonton Railway, from

Calgary northward to Edmonton, and southward to the International Boundary line.

The Minister states that the report of the Chief Engineer of Government Railways shows that the Company have completed and placed in running order to his satisfaction, up to the present time, a total distance of 295.07 miles, which entitles the Company to a grant of 1,888,448 acres. Out of the area set apart for the purposes of their land grant the Company have up to the present selected, and signified their readiness to accept, an area of 1,326,292.77 acres, and this area has been found available for the purposes mentioned, and confirmed to the Company by Orders of the Governor in Council.

The Minister observes that by the Agreement entered into between Her Majesty and the Company, dated 21st June,1890, the Government undertook to pay to the Company $80,000.00 per annum for twenty years, for services to be performed on that portion of their line between Calgary and Edmonton, on the terms and according to the rates specified in the Agreement; and it was provided that, by way of indemnity, in case the amount earned by the Company for services performed under the contract should not amount to $80,000.00 in any year, one-third of land grant of the Company on the Calgary and Edmonton section of the line, as earned from time to time, being an area of 407,402 acres, should be retained and held by the Government to secure the repayment of any such deficiency, and under this Agreement (which was confirmed day the Governor in Council) it was arranged that the area to be retained should be selected from out of the odd numbered sections in the two tiers of townships lying along the International Boundary, between the 4th Meridian and the South Branch of the Milk River. There will still, however, be due to the Company an area of 154,753.23 acres. To partially provide for this deficiency the Company has submitted a further Schedule Marked “P” (a copy of which is hereto attached) and have signified their willingness to accept the land set forth therein as a portion of the land grant. This schedule having been revised in the Department of the Interior has been found to contain an area of 8,960 acres.

The Minister therefor recommends that he be authorized to convey to the Calgary and Edmonton Railway Company, as a portion of their land grant, the lands embraced in Schedule “P”.

The Company's account with the Government in relation to their land grant will then stand thus:—

		Acres
Total area to which the Company is entitled		1,888,448.00
Area already authorized and scheduled to the Company	1,326,292.77	
Area in Schedule “P” herewith	8,960.00	
Area within the two townships along the International Boundary to be held by the Government under the Agreement of the 21st June, 1890	407,402.00	
Total		1,742,654.77
Leaving still to be selected and scheduled		145,793.23

O.C. 17 August 1900 (P.C. 1979)

On a Report dated 2nd August, 1900, from the Minister of the Interior, stating that by an Order in Council dated 27th June, 1890, provision was made for a grant of land at the rate of 6400 acres per mile, in aid of the building of the Calgary and Edmonton Railway from Calgary, northward to Edmonton, and southward to the International Boundary Line.

The Minister further states that the report of the Chief Engineer of Government Railways shows that the Company have completed and placed in running order to his satisfaction, up to the present time a total distance of 295.07 miles, which entitles the Company to a grant of 1,888,448 acres. Out of this area set apart for the purposes of their land grant the Company have up to the present selected and signified their readiness to accept an area of 1,335,252.77 acres, and this area has been found available for the purposes mentioned, and confirmed to the Company by Orders in Council.

The Minister further states that by the agreement entered into between Her Majesty and the Company, dated 21st June, 1890, the Government undertook to pay to the Company $80,000 a year for twenty years for services to be performed on that portion of their line between Calgary and Edmonton, on the terms and according to the rates specified in the agreement, and it was provided that by way of indemnity in case the amount earned by the Company for services performed under the Contract, should not amount to $80,000 in any year, one third of the land grant of the Company on the Calgary and Edmonton section of the line, as earned from time to time, being an area of 407,402 acres, should be retained and held by the Government to secure the repayment of any such deficiency, and under this agreement (which was confirmed by Order in Council) it was arranged that the area to be retained should be selected from out of the odd-numbered sections in the two tiers of townships lying along the International Boundary, between the 4th Meridian and the South branch of the Milk River. There will still, however, be due to the Company an area of 145,793.23 acres. To partially provide for this deficiency the Company have submitted a further schedule marked "Q" (copy herewith annexed) and have signified their willingness to accept the lands set forth therein as a portion of their land grant. This schedule having been revised in the Department of the Interior has been found to contain an area of 13,576.81 acres.

The Minister therefore recommends that he be authorized to convey to the Calgary and Edmonton Railway Company as a portion of their land grant, the lands embraced in schedule "Q."

The Company's account with the Government in relation to the land grant will then stand thus:—

	Acres
Total area to which the Company is entitled	1,888,448.00
Area already authorized and scheduled to the Company	1,335,252.77
Area in Schedule "Q" herewith	13,576.81
Area within the two Townships along the International Boundary to be held by the Government under the agreement of the 21st June, 1890	407,402.00
Total	1,756,231.58
Leaving still to be selected and scheduled	132,216.42

O.C. 17 December 1904 (P.C. 2198)

On a report dated 23rd November, 1904, from the Minister of the Interior, stating that the total area of land subsidy earned by the Calgary and

Edmonton Railway Company by construction of its line under the various Acts and Orders in Council relating to the same is 1,888,448 acres.

The Minister further states that by the agreement entered into between Her late Majesty and the Company dated June 21, 1890, the Government undertook to pay to the Company $80,000 per annum for twenty years, for services to be performed on that portion of its line between Calgary and Edmonton on the terms and according to the rates specified in the agreement, and it is provided that by way of indemnity in case the amount earned by the Company for services performed under the contract should not amount to $80,000 in any year, one third of the land grant of the Company on the Calgary and Edmonton section of the line, as earned from time to time, being an area of 407,402 acres, should be retained and held by the Government to secure the repayment of any such deficiency.

The Company has with the consent of the Government selected and filed in the Department of the Interior lands to complete the said area of 407,402 acres, being the lands contained in Schedule T annexed hereto.

The Minister further states that by an Order in Council dated October 1st, 1904, he was authorized to execute on behalf of His Majesty King Edward VII, an agreement, a copy of which was attached to the said Order, with the said Railway Company with a view to the settlement and adjustment of certain matters affecting the subsidy of lands authorized to be granted to the said Railway Company and an agreement has been accordingly executed by the Minister of the Interior and by the proper officers of the Calgary and Edmonton Railway Company as authorized by By-Law of that Company, a copy of which By-Law was also attached to the said Order in Council dated October 1st, 1904.

The Minister observes that in Section One of the said agreement for the settlement and adjustment of certain matters affecting the subsidy in lands granted to the Company, certain lands are referred to, being particularly described in Schedule A annexed thereto and comprising a total area of 32,156.12 acres.

The lands referred to are lands which have been scheduled to the Company, and which were patented to the Company or its assigns, but which the Company desired to reconvey or cause to be reconveyed to the Crown and to be allowed to select other lands in lieu thereof and the Minister having in view the desirability of effecting a final settlement of the Company's land grant matters, which had been for many years a subject of correspondence and discussion between the Company and the Government and thus freeing the Company's land grant reserve from any further claim by the Company, allowed the Company the privilege asked. Title to these lands has now accordingly been vested in the Crown.

The Minister further observes that with a view to closing up the land grant matters the Company was allowed the further privilege of revising to a limited extent its selection, as comprised in the unpatented portion of the lands previously selected and scheduled to it by Order in Council, and the Company accordingly filed lists of lands comprising such revised selection in the Department of the Interior being the lands in Schedule S annexed hereto.

The Minister further observes that in closing up the Survey fees account of the Railway Company, except the survey fees on the 407,402 acres, to be held by the Government under the said Agreement, dated June 21st, 1890, in accordance with Section 3 of the said agreement for the settlement and adjustment of the Company's land subsidy the area of land necessary at $2 per acre was found to be 67,762.92 acres.

The Company's account under this head stands as follows:—

		Acres
Area on which fees are payable (excepting the 407,402 acres)		1,481,046.00
On which fees at 10c per acre	$148,104.60	
Less total amount paid in cash to date of By-law	5,802.47	
	$142,302.13	
Area therefore of subsidy (excepting the 407,402 acres) on which fees are not paid		1,423,021.30
Deduct area retained by Government in payment of survey fees		67,762.92
		1,355,258.38

Fees on 1,355,258.38 acres $135,525.84 = 67,762.92 at $2 per acre

The Minister further states that the Company prior to the filing of the said By-law in the Department of the Interior filed lists of lands, being the lands contained in Schedule R annexed hereto, which, together with the revised list of selected scheduled lands contained in Schedule S hereinbefore referred to and lands previously patented to the Company or its assigns and the 407,402 acres of land to be held by the Government as security and contained in Schedule T, hereinbefore referred to, would in addition to the 67,762.92 acres retained on survey fees account, complete the selection of the lands forming the land grant of the Company.

The Minister also states that the Company's land grant account may now therefore be stated as follows:—

		Acres
Total area to which the Company is entitled		1,888,448.00
Net area patented to and including grant (No. 928) (Lands revested deducted)	1,107,393.23	
*Estimated net area in Schedule R	158,209.88	
*Estimated net area in Schedule S	147,679.97	
*Estimated net area in Schedule T	407,402.00	
(*Estimated allowance for water stretches and changes in areas of unsurveyed lands deducted)		
Area to be retained at $2 per acre to square survey fees account (except survey fees on the 407,402 acres)	67,762.92	
		1,888,448.00

The Minister therefore recommends:—

1. That he be authorized to convey to the Calgary and Edmonton Railway Company on account of its land subsidy any parcels of land in the said Schedule R hereto attached.

2. That he be authorized to convey to the Company subject to the provisions of the said Agreement between Her late Majesty the Queen and the Company dated 21st June, 1890, and subject to the payment of survey fees at 10c per acre any parcels of land in the said Schedule T to the extent of 407,402 acres.

It is expressly understood that in regard to any lands for which authority to convey to the Company is now recommended to be granted to the Minister of the Interior, or in regard to any lands in Schedule S for which authority has been already granted to the Minister of the Interior to convey to the Company:

a) The Company's right to the conveyance of any such lands is subject to the equitable claims of actual settlers as they may be decided by the Minister of the Interior where the Department of the Interior has notice of said claims prior to the date when conveyance of the land claimed by such settlers would otherwise be made to the Company or its assigns and the Company shall be entitled, in the event of any such actual settlers being found upon the said lands and their claims being recognized by the Department of the Interior to select an equal area of land in lieu thereof from vacant Dominion lands.

b) Nothing herein contained shall be construed to authorize the said Company to claim conveyance of or authorize the Minister of the Interior to convey a greater area than has been earned as land subsidy by the said Company after deducting the said area retained on survey fees account.

O.C. 17 August 1908 (P.C. 1836)

On a Report dated 12th August, 1908, from the Minister of Finance, stating that he has had under consideration an application, addressed to the Minster of the Interior, dated July 2nd, 1908 of the Calgary and Edmonton Railway Company, through its Solicitor, A.R. Creelman, K.C., for the issue of patents to the Company, or its nominees, for certain lands retained by the Crown as security for the repayment of advances made by the Crown to the Company, on terms differing from those set out in the agreement under which the said lands are retained.

On the 21st day of June, 1890, pursuant to statutory authority, the Agreement referred to was entered into between the Crown by the Minister of Railways and Canals of Canada and the Calgary and Edmonton Railway Company, whereby the Crown with a view to assisting the Company to make financial arrangements for the construction of its railway undertook and obliged itself to pay and advance to or for the Company each year, for the period of 20 years, the sum of $30,000 in consideration of which certain transport services were to be performed by the Railway Company for the Government.

By way of indemnity to the Government in the event of transport earnings being less than advances, it was provided in the Agrement, though not required to be provided by any statutory authority, that the Government should retain one-third of the land grant earned by the Company under its charter, to be held by the Government as a first charge or lien securing the repayment of any deficiency that might be due in respect of such payments or advances.

It was further provided that if during the period of twenty years, the Government sold any land included in the grant so retained, or if the

Company sold any land with the consent of the Government, the whole proceeds should be credited against the advances; further that the Government and Company should, from time to time, fix and determine the price at which such lands should be sold, such price to be not less than $1.50 per acre.

The Minister submits that advances were made under the contract upon which, including interest there is due, over and above transport deductions, as of date, the 31st of March, 1908, the sum of One million five hundred and seventy-one thousand eight hundred and forty 77-100 dollars.

The total area of land owned by the Railway Company and retained by the Government as indemnity or security under the contract is 407,402 acres, the selection of which has been made for the Company. This selection was confirmed by Order in Council of date 17th December, 1904.

The Department of the Interior reports that the present ruling prices for land in the locality where the lands so selected are situated vary from Seven 50-100 dollars to twelve dollars per acre.

Having in mind the desirability of opening the lands referred to, to settlement, before the possible diminution of the present rate of immigration, and in order to encourage the active promotion of the sale thereof at the present time by the applicants and having in view that on payment of $6.00 per acre for lands so patented, the security of the Government will be reasonably certain, being an advance of $4.50 per acre on the minimum price fixed by the contract.

The Minister recommends that Patents be issued from time to time of the lands so selected to the Calgary and Edmonton Railway Company or its nominees on payment to the Government of $6.00 per acre therefor, such payments to be credited to the Railway Company under the terms of the agreement first hereinbefore recited.

O.C. 14 November 1919 (P.C. 2246)

The Committee of the Privy Council have had before them a Report, dated 14th October, 1919, from the Minister of the Interior, stating as follows:

The total area of the land subsidy earned by the Calgary and Edmonton Railway Company by construction of their lines, authorized under 53 Victoria, Chap. 4 is 1,888,448 acres.

By an agreement entered into between the Government and the Company on June 21, 1890, the Government undertook to pay the Company, $80,000 per annum for twenty years for certain transport services to be performed on that position of their line between Calgary and Edmonton on terms specified in the agreement. By way of security in case the amount earned by the Company for transport services should not amount to $80,000 a year, the Government was to retain 407,402 acres to secure the repayment of any such deficiency. In June, 1918, the Company made final payment of the balance due on the Transportation Contract.

The lands selected by the company to complete this 407,402 acres were approved by an Order in Council of December 17, 1904. At that date many of the townships set aside for the company were unsurveyed and owing to the difference in area due to re-survey, to water-covered areas, etc., etc., there will be a deficiency of 2,760.16 acres which will have to be satisfied.

The said Order in Council of December 17, 1904, included odd-numbered sections in townships 33 and 34, range 22, west of the 4th Meridian, west of Red Deer River only. As this townships were unsurveyed at that date the reservation for the railway company was voted against the full sections.

According to departmental records there is an area of 1,811.50 acres, lying east of Red Deer River, still held for the railway company under this old reservation.

This area would help very materially towards satisfying the balance due the company.

The Minister, therefore, recommends that those parts of Sections 1, 23, 27 and 35 in Township 33, Range 22, West of the 4th Meridian and of Sections 1 and 13 in Township 34, Range 22, West of the 4th Meridian lying to the east of the River, be made available for Calgary and Edmonton Railway Company land grant purposes.

Adjustment for Lands Owned by Settlers

O.C. 21 February 1896 (P.C. 437)

On a Report, dated 24th January, 1896, from the Minister of the Interior, stating that by an Order in Council, dated 27th of June, 1890, provision was made for a grant of 6,400 acres of land, per mile, in aid of the building of the Calgary and Edmonton Railway, from Calgary northward to Edmonton, and southward to the International Boundary line.

The Minister further states that the Company have completed and placed in running order, to the satisfaction of the Chief Engineer of Government Railways, the entire length of line between Edmonton on the North and the North bank of the Old Man's River, on the South, a total certified distance of 295.07 miles, and have thus become entitled to a subsidy of 1,888,448 acres. To provide the area thus earned, certain townships or tracts of land have, from time to time, been set apart by Orders in Council, out of the odd-numbered sections of which the Company were to select the area of land earned by them. Among the townships thus set apart were Townships 5 and 1, in Range 26 west of the 4th Meridian. An examination of these townships revealed the fact that in Township 5, Range 26, the North half of Section 15 had been squatted upon by one John Smith, who had been in occupation for over 12 years. In Township 1, Range 26, two settlers, John and Charles Furman, were found in occupation of the East half of Section 27, and all these parties were desirous of making homestead entries for their claims.

The Minister further states that, in order to enable him to comply with the request of the said parties, the Railway Company were asked if they would be willing to surrender any title or right which they may have to the lands in question, and select an even-numbered section in lieu of the same. The Company have assented to this arrangement, and have filed in the Department of the Interior at Ottawa, quit claim deed (a copy of which is hereto attached), in favour of the Crown, of the North half of Section 15, Township 5, Range 26, and the East half of Section 27, Township 1, Range 26, both West of the 4th Meridian, selecting, in exchange, Section 6 in Township 16, Range 1 West of the 5th Meridian.

The Minister recommends that the assent of Your Excellency be given to the transfer to the Calgary and Edmonton Railway Company of the said Section 6, as a portion of the land grant earned by them, in exchange for their surrender of the North half of Section 15, in Township 5, Range 26, and the

East half of Section 27, in Township 1, Range 26, both West of the 4th Initial Meridian.

Mines and Minerals

O.C. 21 May 1906 (P.C. 461)

On a Report dated 12th March, 1906, from the Minister of the Interior, submitting:—

1. That prior to the decision of the Judicial Committee of the Imperial Privy Council in the action brought by the Calgary and Edmonton Railway Company against the Crown in the Exchequer Court of Canada to establish the claim of the Company to letters patent for the lands comprising the land subsidy which that Company was granted by Act of the Parliament of Canada, without any reservation in such letters patent of the mines and minerals, except gold and silver, in such lands, it was agreed between the Crown, as represented by the Minister of the Interior, and the Company that the Department of the Interior should continue the sale of such mines and minerals in the same manner and for the same prices that they would have been disposed of by that Department if the Company had not claimed the same as its property; that an account of the prices received by the Department of the Interior for such mines and minerals would be kept by the Department; that if the decision in the action before referred to was favourable to the Company the total amount of all moneys received by the Department of the Interior for such mines and minerals would be paid to the Company and that the Company would accept such total amount in full satisfaction of all claims and demands against the Department of the Interior, or in other words, against the Crown on account of such mines and minerals.

2. That in accordance with such agreement the Department of the Interior continued the sale of such mines and minerals in certain of the lands which comprised the Company's land subsidy and received in full of the prices therefor the total sum of $38,013.07, of which sum, however, only $10,923.07 was received in cash, the balance of $27,090.00 having been paid in scrip, which had been issued in satisfaction of Half-breed claims and which by its terms was redeemable at its face value in payment of Dominion Lands, and, therefore, in payment of all mines and minerals which had been reserved to the Crown.

3. That the decision of the Judicial Committee of the Imperial Privy Council before referred to was in favour of the Company and that the Company is, therefore, entitled to be paid the total amount of $38,013.07, of the prices so received by the Department of the Interior for such mines and minerals.

4. That the Company has refused to accept in scrip the portion, $27,090.00, which was received by the Department of the Interior in scrip; and

5. That it is the opinion of the Deputy Minister of Justice, as well as of the officers of the Department of the Interior who have considered the matter that the company is entitled to be paid the full amount, $38,013.07 in cash.

The Minister therefore recommends that authority be given for the issue of a cheque for $10,923.07 in favour of the Calgary and Edmonton Railway Company, or of its legal representatives, to refund the amount so received by the Department of the Interior for the mines and minerals referred to in cash, and that Parliament be asked for a vote of $27,090.00 to be paid to the same Company, or its legal representatives, as a refund of so much of the total of the prices of the said mines and minerals which was received by the Department of the Interior in scrip.

O.C. 19 December 1907 (P.C. 2729)

The Minister of the Interior states, under date the 2nd December, 1907, that by an Order in Council dated 21st May, 1906, it was ordered that all moneys received by the Department of the Interior prior to the decision of the Judicial Committee of the Privy Council in the action brought by the Calgary and Edmonton Railway Company against the Crown respecting the mines and minerals, except gold and silver, in the lands comprising the Company's land subsidy, should—if the decision was favourable to the Company—be paid to the Company, the Company to accept the same in full satisfaction of all claims and demands against the Department of the Interior; and further—the decision having been favourable to the Company—that the sum of $10,293.07 then held by the Government should be paid to the said Company.

The Minister further states that in accordance with the said agreement and in continuing the sale of the mines and minerals referred to, the Department of the Interior has received a further sum of $27,884.50 in cash, and it is desirable that this further sum should be paid to the said Company or its legal representatives.

The Minister therefore recommends that authority be given for the issue of a cheque for $27,884.50 in favour of the Calgary and Edmonton Railway Company or of its legal representatives to refund the amount so received by the Department of the Interior for the mines and minerals referred to.

IRRIGATION TO 1898

Legislation

S.C.1894 c.30 [the *North-West Irrigation Act*]

An Act respecting the utilization of the waters of the North-West Territories for Irrigation and other purposes

[Assented to 23rd July, 1894]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as the *North-West Irrigation Act.*

2. In this Act, unless the context otherwise requires,—

a) The expression "minister" means the Minister of the Interior;

b) The expression "agent" means the registrar of the lands registration district in which the land or water is situated;

c) The expression "Dominion land surveyor" means a surveyor duly authorized under the provisions of the *Dominion Lands Act,* to survey Dominion lands;

d) The expression "company" means any incorporated company, the objects and powers of which extend to or include the construction or operation of irrigation or other works under this Act or the carrying on thereunder of the business of the supply or the sale of water for irrigation or other purposes, and includes also any person who has been authorized or has applied for authority to construct and operate such works or carry on such business, or who has obtained a license under section eleven of this Act;

e) The expression "works" means and includes any dykes, dams, weirs, flood-gates, breakwaters, drains, ditches, basins, reservoirs, canals, tunnels, bridges, culverts, cribs, embankments, headworks, flumes, aqueducts, pipes, pumps and any contrivance for carrying or conducting water or other works which are authorized to be constructed under the provisions of this Act;

f) The expression "duty of water" means the area of land that a unit of water will irrigate, which unit is the discharge of one cubic foot of water per second.

3. This Act shall apply to and be in force throughout the North-west Territories.

4. Until the contrary is proved, the right to the use of all water at any time in any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp, marsh, or other body of water shall, for the purposes of this Act, in every case be deemed to be vested in the Crown; and, save in exercise of any legal right existing at the time of such diversion or use, no person shall divert or use any water from any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp, marsh or other body of water, otherwise than under the provisions of this Act.

5. Except in pursuance of some agreement or undertaking existing at the time of the passing of this Act, no grant shall be hereafter made by the Crown of lands or of any estate, in such terms as to vest in the grantee any exclusive or other property or interest in or any exclusive right or privilege with respect to any lake, river, stream or other body of water, or in or with respect to the water contained or flowing therein, or the land forming the bed or shore thereof.

6. After the passing of this Act, no right to the permanent diversion or to the exclusive use of the water in any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp, marsh or other body of water, shall be acquired by any riparian owner or any other person by length of use or otherwise than as it may be acquired or conferred under the provisions of this Act, unless it is acquired by a grant made in pursuance of some agreement or undertaking existing at the time of the passing of this Act.

7-1. Any person who holds water rights of a class similar to those which may be acquired under this Act, or who, with or without authority, has constructed or is operating works for the utilization of water, shall obtain a license or authorization under this Act within twelve months from the date of the passing of this Act.

7-2. If such license or authorization is obtained within the time limited, the exercise of such rights may thereafter be continued, and such works may be carried on under the provisions of this Act, otherwise such rights or works, and all the interest of such person therein, shall without any demand or proceeding be absolutely forfeited to Her Majesty and may be disposed of or dealt with as the Governor in Council sees fit.

7-3. The application for such license or authorization shall be made in the same manner as for other licenses or authorization under this Act, and the like proceedings shall be had thereon and the like information furnished in connection therewith.

8-1. Any water the property in which is vested in the Crown may be acquired for domestic, irrigation, or other purposes, upon application therefor hereinafter provided; and all applications made in accordance with the provisions of this Act shall have precedence, except applications under section seven, according to the date of filing them with the agent, if for the same purpose, but not otherwise.

8-2. The purposes for which the right to water may be acquired are of three classes, namely: First, domestic purposes, which shall be taken to mean household and sanitary purposes and the watering of stock, and all purposes connected with the working of railways or factories by steam, but shall not include the sale or barter of water for such purposes; second, irrigation purposes; and, third, other purposes.

8-3. Applications shall have precedence in this order irrespective of the date of filing, so that all applications for domestic purposes shall have precedence of all those for irrigation and other purposes, and all applications for irrigation purposes shall have precedence of all those for purposes within the third class.

9. No application for any purpose shall be granted where the proposed use of the water would deprive any person owning lands adjoining the river, stream, lake or other source of supply of whatever water he requires for domestic purposes.

10. When any person abandons or ceases to use any waters acquired by him for the purposes for which they were acquired, or wastes such waters, his right to use them shall cease.

11. Any person contemplating or projecting any works under this Act, may, upon submitting a general description of such works and upon payment of a fee of five dollars, obtain from the agent a license to do the necessary preliminary work in connection with the location of such works; and after he obtains such license may, with such assistants as are necessary, enter into and upon any public or private lands to take levels, make surveys, and do other necessary work in connection with such location, doing no unnecessary damage.

12-1. Any company applying for a license or authorization under this Act shall file with the minister and the agent a memorial setting forth the names of its shareholders and their places of residence, the date and manner of its incorporation, the names of its directors and officers and their places of residence, the amount of the company's subscribed capital and the amount of its paid-up capital, the proposed method of raising further funds, if needed, and the purposes for which the company is incorporated.

12-2. If the applicant is not an incorporated company, the memorial shall set forth his name, residence and occupation, and such particulars as to his financial standing as shall establish to the satisfaction of the minister his ability to carry out the proposed undertaking.

12-3. The memorial shall also state the name of any river, stream, or other source of supply from which water is to be diverted, the extent of settlement along or in the vicinity of such river, stream or other source of water supply; the probable quantity of water to be used, and the point of diversion; the works proposed to be constructed for the purposes of the undertaking, and the locality of the same, as near as may be; the purpose to which the said water is to be applied, and the proposed rate to be charged for it; the probable number of consumers; the probable quantity of land that may be beneficially irrigated; the character, description and value of such land in its present state, including improvements, and such other and further particulars as are needful to a full understanding of the scheme.

12-4. Attached to the memorial shall be a general map or plan, on a scale of not less than one inch to half a mile, showing the tract to be served by such water, the location of all rivers, streams and other sources of water supply therein, and the probable location of the proposed works, also the position and area of all ponds, reservoirs, or basins intended to be created for the purpose of storing water or which may have that effect.

12-5. There shall also be filed with the memorial, plans in detail of all bridges or culverts necessary for the road or farm crossings over or under the works of the company, also plans in detail of flumes, headworks, dams or other structures for the diversion or use of water, such plans to be on a scale of not less than one inch to four feet.

12-6. In the case of all ditches or canals carrying more than twenty-five cubic feet of water per second, in addition to the above information the applicant shall furnish the following maps or plans:

a) A longitudinal profile of the ditch, showing the bottom and the proposed surface water line. The horizontal scale of this plan shall be not less than one inch to four hundred feet, and the vertical scale not less than one inch to twenty feet;

b) a plan showing cross-sections at a sufficient number of points to fully illustrate all the different forms which the ditch when constructed will take, particularly on side-hills or elsewhere where any portion of the water is to be conveyed in fill. When water is to be conveyed in cut there shall also be shown on this plan cross-sections at points where the shortest horizontal distance from either side of the bottom of the ditch to the surface of the ground is less than double the bottom width of the ditch at that point. The plan shall be drawn on a horizontal and vertical scale of one inch to twenty feet.

12-7. Plans of any dams, cribs, embankments or other works proposed to obstruct any river, stream, lake or other source of water supply, or in order to create a pond, reservoir or basin of water anywhere, or which may have that effect, shall be prepared on a longitudinal scale of not less than one inch to one hundred feet, and for cross-sections on a scale of not less than one inch to twenty feet, and shall show what material is intended to be used and how placed in such works. The timber, brush, stone, brick or other material used in such works shall be shown in detail on a plan, the scale of which shall be not less than one inch to four feet.

12-8. Cross-section maps or plans showing the surface of the ground under such pond, reservoir or basin of water, and also the surface of the water proposed to be held therein; the horizontal scale of the said maps or plans shall be not less than one inch to one hundred feet; and the vertical scale shall be not less than one inch to twenty feet; and a sufficient number of lines of levels shall be shown, so that the contents of the pond, reservoir or basin of water may be accurately determined. If the maps or plans show the levels by contour lines, they shall be on a scale sufficiently large that the contour lines, showing a vertical distance between them not exceeding one foot, may be accurately delineated. The maps or plans shall have sufficient information to show clearly the property likely to be affected by the creation of such ponds, reservoirs or basins of water, and the manner in which affected, and shall show in detail such other particulars as the minister or the Governor in Council sees fit to order; and there shall also be furnished a plan, on a scale of not less than one inch to four feet, showing the proposed manner of controlling and drawing off the water from any such pond, reservoir, or basin.

13-1. The memorial and maps or plans shall be made in duplicate and signed by the applicant, or, if the applicant is a company, by the executive officers thereof,—such of the maps or plans as are intended to show the land to be affected by the works being also signed and certified correct by a Dominion land surveyor,—and shall be filed, one copy with the minister and the other copy with the agent, and the same or a true copy thereof shall be open for examination by the public at all times in the Department of the Interior at Ottawa, and at the office of the agent.

13-2. In any case where he thinks proper, the minister may direct that a copy be also filed in such other place or with such other official or person as he names for that purpose, and such copy also shall be open to public inspection.

13-3. Public notice of such filing,—which notice shall contain a statement of the nature of the rights applied for and the general location and character of the proposed works,— shall forthwith be given by the applicant in the *Canada Gazette* and not less than once a week in some newspaper published in the neighbourhood of the proposed works and to be named by the agent, for a period of not less than thirty days nor more than ninety days, as the minister determines,—within which time all objections to the proposed works shall be forwarded to the minister.

13-4. The minister shall consider all objections filed and report thereon to the Governor in Council, who may thereupon by Order in Council authorize the construction of the said works with such changes or variations as are deemed necessary.

14-1. Any works authorized under this Act shall, if the minister so determines, be constructed subject to inspection during construction from time to time, and on completion, and at any time thereafter, by an officer to be named by the minister; and the cost of such inspection or such portion thereof as the minister decides shall be borne by the company constructing such works.

14-2. Should any person residing on or owning land in a neighbourhood of any works, either completed or in course of construction, apply to the minister in writing desiring an inspection of such works, the minister may order an inspection thereof.

14-3. The minister may require the applicant for inspection to make a deposit of such sum of money as the minister thinks necessary to pay the expenses of an inspection, and in case the application appears to him not have been justified may cause the whole or part of the expenses to be paid out of such deposit.

14-4. In case the application appears to the minister to have been justified, he may order the company to pay the whole or any part of the expenses of the inspection, and such payment may be enforced as a debt due to Her Majesty.

14-5. Upon any inspection under the provisions of this section the minister may order the company to make any addition or alteration which he considers necessary for their security to or in any works of the company, and non-compliance with such order may be dealt with in the same manner as is provided with respect to an order of the minister under section thirty-four of this Act.

15-1. No work shall be commenced until the approval of the Governor in Council has been signified by public notice in the *Canada Gazette* and some newspaper published in the neighbourhood of the proposed works and named by the minister, which notice shall set forth the particulars mentioned in the memorial, with such changes or variations as the Governor in Council sees fit to order, and shall specify a time within which such works shall be completed. Such notice shall be published in not less than two successive issues of such newspaper, and shall be the authority for proceeding with the work. A copy of the notice shall also be recorded in a book specially kept for that purpose by the agent in the office for his district, and this record shall remain open for public inspection. If either the lands on which the water is to be applied or the waters to be used thereof are not confined to the territory assigned to any one agent, a record must be filed with each agent in whose territory any part thereof is situate.

15-2. Any changes and variations ordered by the Governor in Council regarding the plans of the proposed works must be filed by the applicant in the office of the agent, and shall form a portion of the record open for public inspection.

15-3. No material deviation from the plans filed shall be made without permission, and any question arising as to whether any deviation is material or otherwise shall be decided by the minister or such officer as he designates.

16. The company, immediately after the last publication of such last mentioned notice, may proceed with the execution and construction of the works authorized, and for the purposes of such execution and construction shall have the powers conferred by the *Railway Act* upon railway companies so far as the same are applicable to the undertaking of the company and are not inconsistent with the provisions of this Act or with the authority given to the company, the provision conferring such powers being taken for this purpose to refer to any work for the company where in the said Act they refer to the railway.

17-1. The construction of any work authorized under this Act shall be commenced not later than two months after the last publication of such last-mentioned notice, unless such two months expire between the first day of November and the first day of May following, in which case the time of commencement shall not be later than the first day of May following, in which case the time of commencement shall not be later than the first day of May following, and shall proceed continuously until sufficiently completed to supply water to all applicants within the area described in the authorization, provided there is sufficient water available for that purpose; and the minister or such officer as he designates, shall be the sole arbiter as to whether the work is being prosecuted with sufficient vigour.

17-2. Should any unforeseen disaster intervene to prevent the construction or completion of the works within the time limited, or for any other reasons which he deems sufficient, the Governor in Council may authorize an extension of time for the commencement or completion of the works.

17-3. Upon the expiration of the time limited for the completion of the works, the rights granted to the company shall cease and determine, except in so far as they are necessary for effectually operating the works then completed;

and any works at the date of such forfeiture constructed or acquired by it may be taken over and operated or disposed of by the Governor in Council in the manner and upon the terms hereinafter provided.

18. When any works for carrying water are not of sufficient capacity to carry the quantity of water acquired by their owner, his exclusive right shall be limited to the quantity which such ditch, flume or other contrivance is capable of carrying; and in case of dispute as to such quantity the minister may order an inspection of the works; and the report and finding of the inspecting officer as to the capacity thereof shall, for the purposes of this section, be final and conclusive.

19. Companies which acquire the right to use or divert water from any river or other source of supply shall, subject to the provisions of section eight, have priority among themselves according to the date of their license or authorizations, so that each company shall be entitled to receive the whole of the supply to which its license or authorization entitles it, or to the amount of water which it works will carry, or to the amount of water required by the land on which it is applied, whichever is the smaller amount, before any company whose license or authorization is of a later date has any claim to a supply; and should complaint be made to the minister, or to an officer authorized by him to receive such complaints, that any company is receiving water from such source of supply to which another company is entitled by virtue of priority of right, and that the company having such priority of right is not receiving the supply to which it is entitled, some officer to be named by the minister or the officer to whom complaint is so made, as the case may be, shall inquire into the circumstances of the case, and if he finds that there is ground for the complaint shall cause the head-gates of the ditch or other works of the company which is receiving an undue supply of water to be closed so that the supply to which the other company is entitled shall pass and flow to its work.

20-1. Every company and the officers and directors thereof shall afford to any inspecting officer such information as is within their knowledge and power in all matters inquired into by him, and shall submit to such inspecting officer all plans, specifications, drawings and documents relating to the construction, repair or state of repairs of the works or any portion thereof.

20-2. The production of instructions in writing signed by the minister or his deputy or the secretary of the Department of the Interior, shall be sufficient evidence of the authority of such inspecting officer.

20-3. Every person who wilfully obstructs an inspecting officer in the execution of his duty shall be liable, on summary conviction, to a penalty not exceeding twenty dollars, or to imprisonment for a term not exceeding two months, with or without hard labour, or to both.

21-1. Lands required for the works of the company, as shown by the maps and plans filed, in whomsoever they are vested, whether in Her Majesty or in any company under this Act, or in any railway company, or in any other person whomsoever, or any interest in or right or privilege with regard to such land which is so required, may be taken and acquired by the company; and to this end all the provisions of the *Railway Act* which and so far as they are applicable to such taking and acquisition, shall apply as if they were included in this Act, the Minister of the Interior and the Department of the Interior being substituted for the Minister of Railways and Canals and the Department of Railways and Canals, respectively, wherever in the provisions of the said Act the latter minister and department are referred to: Provided, that the Minister of the Interior may impose such terms and conditions as he thinks proper in the public interest in connection with the acquisition under this section of any lands which are vested in any company under this Act, or in any railway company, or of any interest in such lands or any right or privilege affecting such lands.

21-2. All provisions of the *Railway Act* which are applicable shall in like manner apply to fixing the amount of and the payment of compensation for damages to lands arising out of the construction or maintenance of the works of the company or the exercise of any of the powers granted to the company under this Act.

22. All maps, plans and books of reference showing the lands required by the company for any purpose in connection with the construction or maintenance of its works must be signed and certified correct by a duly qualified Dominion land surveyor.

23. The minister or such officer as he designates shall, in case of dispute, be the sole arbiter as to the area of land which may be taken by the company without the consent of the owner for any purpose in the construction and maintenance of its works.

24. Every person who interrupts, molests or hinders in his work any engineer or Dominion land surveyor engaged in making surveys or levels, or in other operations in connection with any work authorized under this Act, is guilty of an offence, and liable on summary conviction to a penalty not exceeding twenty dollars, or to imprisonment for a term not exceeding two months, or both.

25-1. No company authorized to divert the water of any river, stream, lake or other waters shall divert more water than the quantity actually required for the purpose authorized, and any company or officer or employee thereof so doing shall be guilty of an offence punishable on summary conviction by a fine not exceeding five dollars per day, or fraction of a day, for each unit or fraction of a unit of water so diverted.

25-2. In case of dispute as to the quantity of water diverted, the minister may order an inspection of the works of the company by an officer named by him for that purpose; and for the purposes of this section the report and finding of such officer as to the quantity diverted shall be final and conclusive.

26. Every person who, without authority, takes or diverts any water from any river, stream, lake or other waters or from any works authorized under this Act, or who takes or diverts therefrom any greater quantity of water than he is entitled to, is guilty of an offence and liable upon summary conviction to a fine not exceeding five dollars per day or fraction of a day for each unit or fraction of a unit of water improperly diverted, or to imprisonment for a term not exceeding thirty days, or to both, and upon indictment to a fine not exceeding five dollars per day or fraction of a day for each unit or fraction of a unit of water improperly diverted, or to imprisonment for a term not exceeding thirty days, or to both.

27. When any company abandons or ceases to use any waters acquired by it for the purposes for which they were acquired, and any charge of such abandonment or ceasing to use water is made to the minister, such charge maybe inquired into by him or by any person or officer appointed by him for

that purpose; and the minister shall submit his report upon such inquiry to the Governor in Council, and the Governor in Council may make such order in the premises as he deems just and proper; and if the Governor in Council should, as he may, by such order declare a forfeiture of the right of the company offending to the use of the water authorized, the right so ordered or declared to be forfeited shall cease and determine.

28-1. Any company having the right to the use of water for irrigation or other purposes shall dispose of any surplus water flowing in its works which is not being utilized or used for the purposes authorized, to any person applying therefor for irrigation purposes and tendering payment for one month in advance at the regular prices.

28-2. Persons so applying shall pay an amount equal to the cost and expense of the works required to convey the surplus water to them, or shall themselves construct such works; and until this is done the delivery of surplus water need not be made.

28-3. When the necessary works have been constructed and the payment or tender herein provided for has been made, the applicant shall be entitled to the use of so much of the surplus water as such works have the capacity to carry.

28-4. Nothing in this section shall be construed to give to any person acquiring the right to use surplus water any right to the said surplus water when it is needed by the company for the purposes authorized, or to waste or sell or dispose thereof after being used by him, or shall prevent the original owners from retaking, selling or disposing thereof in the usual or customary manner after it has been so used as aforesaid.

29-1. No company undertaking to sell water conveyed by its work shall, subsequent to the first four years after the construction of such works as are necessary to convey the water to the user, discriminate between the users of such water regarding the price thereof.

29-2. If from any cause the whole amount of water agreed to be supplied by a company is not available, then each user shall have furnished to him by the company so much water as shall bear to the available water the same proportion as his usual supply bears to the whole amount agreed to be furnished.

29-3. Any company violating these provisions shall be guilty of an offence against this Act and liable upon summary conviction to a fine not exceeding one thousand dollars for each and every such offence, or to imprisonment for a period not exceeding two months, or to both.

30-1. The minister may grant to any company the right to store for irrigation purposes during periods of floods or high water, or during those portions of the year when water is not required for irrigation purposes, any water not being used during such periods.

30-2. Should there by any works for the carriage of water which are not being utilized to their full capacity by their owner, and which can with advantage be utilized to carry the whole or any portion of the water desired to be stored any portion of the distance it is required to be so carried or conducted, without interfering with the use made of the said works by their owner, then the said works shall be placed at the disposal of the company desiring to so use it; and if the parties cannot agree to the compensation to be paid for such service, the minister may fix the rate to be paid therefor.

31. Any person or company constructing any works under the provisions of this Act, shall during such construction keep open for safe and convenient travel all public highways theretofore publicly travelled as such, when they are crossed by such works, and shall, before water is diverted into, conveyed or stored by any such works extending into or crossing any such highway, construct, to the satisfaction of the minister, a substantial bridge, not less than fourteen feet in breadth, with proper and sufficient approaches thereto, over such works; and every such bridge and the approaches thereto shall be always thereafter maintained by such person or company.

32. Under this Act the discharge of one cubic foot of water per second shall be the unit of measurement of flowing water, and the cubic foot or acre foot, the unit of measurement of quantity. The acre foot is equivalent to forty-three thousand five hundred and sixty cubic feet.

33-1. Companies constructing and operating works under this Act, shall, on or before the thirty-first day of January in each year, make a return to the minister, attested by the oath of its president and secretary, for the year ending the thirty-first day of December preceding, showing:

The amount expended on construction;
The amount expended on repairs;
The amount received from shareholders;
The amount of bonds issued;
The amount received for water supplied for irrigation;
The amount received from other sources;
The amount of dividend declared and paid;
The amount of capital stock authorized;
The amount of capital stock subscribed;
The amount of capital stock paid up to date;
The amount of bonded indebtedness;
The amount bonds sold for;
The rate of interest bonds bear;
The amount of indebtedness other than bonds, and the rate of interest such indebtedness is bearing;
The cost of management;
A statement of the works, and their extent and character;
The number of miles of canals, ditches, etc;
The number of users;
The number of acres actually under irrigation;
The number of acres of irrigable land in the system;
The names of officers and employees;
The proposed extensions during ensuing years and the acreage to be covered thereby;
Such other data as the Governor in Council sees fit to order.

33-2. Attached to such annual return shall be a copy of the by-laws of the company, showing all amendments thereto during the year covered by the said return.

33-3. The return required by this section may be waived by the minister in the case of a private person supplying water solely to himself.

34-1. When a complaint, under oath of the complainant and of at least one witness, is made to the minister or the agent by a consumer of water who has paid his rates, that a company which has engaged or is under obligation to supply him with water is failing to do so, or is failing to keep its works in proper condition, the minister or some person or officer appointed by him for the purpose may make immediate inquiry and take all necessary steps to ascertain the truth of the complaint, and if he considers the complaint established may order and direct that the company shall take forthwith such action as he considers necessary in order as far as possible to remove the cause of complaint.

34-2. If the company fails to obey such order, the minister shall forthwith issue a certificate to that effect, reciting all the facts, which certificate being presented to the judge of the Supreme Court for the judicial district within which such works lie, the judge shall hear and determine the matter in a summary manner, and shall order the company to proceed with all despatch to take such measures as he considers necessary in the premises; and refusal or neglect to obey any order made by a judge under this section may be treated and punished as contempt of court, and such other proceedings may be had and taken thereon as in the case of non-compliance with any other mandatory order of the said court or a judge thereof.

35. The Governor in Council may authorize two or more companies whose works are contiguous, to unite and form one company with a view to providing increased water supply and extending their works, when he is satisfied that the holders of more than fifty per cent of the capital stock of each company are in favour of the union, that users dependant upon the water supply will not be injured, and that the companies to be united have the necessary financial means for carrying out the proposed undertaking,—the same particulars being furnished to the Governor in Council as are required to be furnished upon an application for authorization to construct works under this Act; and public notice of the authorization of the united companies and their proposed works shall be given in the manner prescribed in the case of an application under section fifteen.

36. The minister or any one specially authorized by him may, when he deems it necessary for the satisfactory carrying out of the provisions of this Act or the regulations to be framed under it, summon before him any person by subpoena, examine such person under oath, and compel the production of papers and writings; and for neglect to obey such summons or refusal to give evidence, or to produce the papers or writings demanded of him, the minister or the person authorized may, by warrant under his hand, order the person in default to be imprisoned in the nearest common jail as for contempt of court, for a period not exceeding fourteen days.

37. All affidavits, oaths, solemn declarations or affirmations required to be taken under this Act or any regulations made thereunder, may be taken before any agent authorized under this Act, a Dominion lands agent or officer, or any persons specially authorized by the minister to take them, or any other persons authorized to take affidavits in the North-west Territories; and the minister may require any statement called for under this Act, or under any such regulation, to be verified by oath, affidavit, affirmation or declaration.

38. The Governor in Council may take such steps as he deems necessary at any time to secure a complete or partial survey of the sources of the water supply for irrigation and other purposes, with an estimate of the extent and location of irrigable lands, and of the site or sites suitable for ponds, basins and reservoirs for water storage, and may reserve lands forming such sites from general sale and settlement and dispose thereof by sale or lease to be

utilized for purposes within the purview of this Act. He may also take such steps as he thinks necessary to protect the sources of water supply, and to prevent any act likely to diminish or injure the said supply.

39. The Governor in Council may from time to time authorize the establishing in rivers, streams, lakes, and other waters, water gauges for computing the approximate volume and discharge of waters, the placing of high water marks on rivers and streams, lakes and other waters when in flood, the taking of steps for securing analyses of the water of rivers, streams, lakes and other waters, and the adopting of such other measures and proceedings for promoting the beneficial use of water, and for controlling and regulating the diversion and the application thereof as he finds necessary and expedient and as are consistent with the provisions of this Act.

40. The Governor in Council may, if in the public interest it is at any time deemed advisable so to do, take over and operate or otherwise dispose of the works of any company authorized under this Act: Provided, that compensation shall be paid for such works at their value,—such value to be ascertained by reference to the Exchequer Court, or by arbitration, one arbitrator to be appointed by the Governor in Council, the second by the owner of the works to be taken over, and the third by the two so appointed, or in case these cannot agree as to the third arbitrator, by the Exchequer Court,—and that in estimating such value the court or the arbitrators may take into account the expenditure of the company and interest on such expenditure, and the value of its property, works and business; Provided also, that no person who at such date is using the water of the said works, shall be deprived of the quantity of water he is entitled to: Provided further, that in any such case the Governor in Council shall have due regard to the claims to consideration of any persons who have prepared or have in course of preparation any land to be supplied with water by the works taken over.

41. The by-laws and regulations of companies operating under this Act shall not contain anything contrary to the true intent and meaning of this Act, and shall be subject to revision and approval by the Governor in Council; and no tariff of charges for water furnished by any company shall come into operation until it has been approved by the Governor in Council.

42. Any company authorized under this Act may issue bonds, debentures or other securities to the amount of its subscribed capital, or double the amount of its paid-up capital, whichever is the smaller amount.

43. Any company authorized under this Act may acquire land by purchase or lease for improvement by irrigation, and shall dispose thereof within fifteen years after its acquisition, otherwise such land shall revert to the Crown.

44. Any company authorized under this Act may for the purposes of its undertaking construct or acquire electric telegraph and telephone lines or any other contrivances for the transmission of messages through or along wires, rods, tubes or other appliances, and may acquire any land necessary for the construction and operation of such lines or contrivances, and the lands necessary to be taken and acquired for this purpose may be acquired under the provisions of section twenty-one of this Act.

45. The Governor in Council may—

Define the manner in which the measure of water shall be arrived at;

Define the duty of water according to locality and soil;

Define the portion of the year during which water shall be supplied for irrigation;

Fix the license fee or charge to be paid by companies applying for registration of water rights or for authority to engage in irrigation or other works under this Act,—which fees or charges maybe varied according to the capital employed or volume of water diverted;

Regulate the extent of diversion from rivers, streams, lakes or other waters;

Regulate the passage of logs, timber and other products of the forests through or over any dams or other works erected in rivers, streams, lakes and other water under the authority of this Act;

Regulate from time to time the water rates which may be charged by companies, and the publication of tariffs of rates;

Prescribe forms to be used in proceedings under this Act;

Impose penalties for violations of any regulation made under the authority of this Act,—which penalties shall in no case exceed a fine of two hundred dollars or three months' imprisonment, or both;

Regulate the manner in which water is to be supplied to persons entitled thereto, whether continuously or at stated intervals, or under both systems;

Authorize some person or officer, whose decision shall be final and without appeal, to decide in cases of dispute as to what constitutes surplus water as mentioned in this Act;

Make such orders as are deemed necessary, from time to time, to carry out the provisions of this Act according to their true intent, or to meet any cases which arise and for which no provision is made in this Act; and further, make any regulations which are considered necessary to give the provisions of this Act full effect.

46. All regulations made and forms prescribed by the Governor in Council under this Act shall be published in the *Canada Gazette* and shall be laid before both Houses of Parliament within the first fifteen days of the session next after the date thereof.

47. Any companies already formed to promote irrigation shall be subject to all the provisions of this Act, except so far as the powers mentioned in section forty-two of this Act are concerned.

S.C. 1895 c. 33

An Act to amend the "North-west Irrigation Act"

[Assented to 22nd July, 1895]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Subsection b) and d) of section two of the *North-west Irrigation Act*, chapter thirty of the Statutes of 1894, are hereby repealed and the following substituted therefor:—

b) The expression "agent" means the agent of Dominion lands for the district in which the land or water is situated.

d) The expression "company" means any incorporated company, the objects and powers of which extend to or include the construction or operation of irrigation or other works under this Act, or the carrying on thereunder of the business of the supply or the sale of water for irrigation or other purposes, and includes any person who has been authorized or has applied for authority to construct and operate such works or carry on such business, or who has obtained a license under section eleven of this Act, and also includes any irrigation district incorporated under an Ordinance of the North-west Territories.

2. Section four of the said Act is hereby repealed and the following substituted therefor:—

4-1. The property in and the right to the use of all the water at any time in any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp, marsh or other body of water shall, for the purposes of this Act, be deemed to be vested in the Crown unless and until and except only so far as some right therein, or to the use thereof, inconsistent with the right of the Crown and which is not a public right or a right common to the public, is established; and, save in the exercise of any legal right existing at the time of such diversion or use, no person shall divert or use any water from any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp, marsh or other body of water, otherwise than under the provisions of this Act.

4-2. The said Act shall be read and construed as if the section hereby substituted had originally formed part thereof instead of this section hereby repealed.

3. Subsection one of section seven of the said Act is hereby repealed and the following substituted therefor:—

7. Except for domestic purposes, as hereinafter described, every person who holds water rights of a class similar to those which may be acquired under this Act, or who, with or without authority, has constructed or is operating works for the utilization of water, shall obtain a license or authorization under this Act before the first day of July, one thousand eight hundred and ninety-six.

4. Subsection one of section twelve of the said Act is hereby repealed and the following substituted therefor:—

12. Except as hereinafter provided, any company applying for a license or authorization under this Act shall file with the minister and the agent a memorial setting forth the names of its shareholders and their places of residence, the date and manner of its incorporation, the names of its directors and officers and their places of residence, the amount of the company's subscribed capital and the amount of its paid-up capital, the proposed method of raising further funds, if needed, and the purposes for which the company is incorporated.

5. Section thirteen of the said Act is hereby repealed and the following sections are substituted therefor:—

13-1. The memorial and maps or plans shall be made in duplicate and signed by the applicant, or, if the applicant is a company, by the executive officers thereof, and shall be filed, after having been first submitted for correction and approval to some duly qualified officer of the Department of the Interior to be named by the minister, one copy with the minister and the other copy with the agent, and the same or a true copy thereof shall be open for examination by the public at all times in the Department of the Interior at Ottawa, and at the office of the agent.

13-2. In any case where he thinks proper, the minister may direct that a copy be also filed in such other place or with such other official or person as he names for that purpose, and such copy also shall be open to public inspection.

13-3. The applicant shall forthwith give public notice of such filing; such notice shall contain a statement of the nature of the rights applied for and the general location and character of the proposed works, and shall be published once in the *Canada Gazette*, and not less than once a week for a period of not less than thirty days nor more than ninety days, as the minister determines in some newspaper published in the neighbourhood of the proposed works and to be named by the agent, and all objections to the proposed works shall be forwarded to the minister within such period.

13-4. The minister shall consider all objections filed and report thereon to the Governor in Council, who may thereupon by Order in Council authorize the construction of the said works with such changes or variations as are deemed necessary.

13A-1. The applicant for a license for a ditch of less capacity than ten cubic feet of water per second shall not be required to provide the memorial and maps and plans called for by section twelve of this Act, or to give the notice in the *Canada Gazette* required by section thirteen of this Act, but shall file with the minister and the agent a written statement setting forth his name and residence, the source from which water is to be diverted, the point of diversion, the probable quantity of water to be used, the size and slope of the ditch, the works proposed to be constructed for the purposes of the undertaking, a description of the land upon which the water is to be used, and such other and fuller particulars as may be needful to a full understanding of the scheme.

13A-2. Attached to the statement shall be a general plan on a scale of not less than one inch to a half mile, showing the source of supply, the position of proposed headworks, the location of the ditch, the tract of land to be irrigated through the proposed scheme, and the position and area of any and all ponds, reservoirs, and basins intended to be constructed for the storage of water.

13A-3. There shall also be filed with the statement, plans in detail of bridges, or culverts necessary for road or farm crossings over or under the proposed works; also plans in detail of flumes, headworks, dams, or other structures to be erected in connection with the proposed works,—such plans to be on a scale of not less than one inch to four feet.

13A-4. Public notice of such filing shall forthwith be given by the applicant, in some newspaper published in the neighbourhood to be named by the agent, not less than once a week for a period not exceeding thirty days, within which time all protests against granting the rights applied for shall be forwarded to the minister.

13A-5. The minister, after considering all objections filed, may authorize the construction of said works with such changes or variations as are deemed necessary."

6. Subsection one of section fifteen of the said Act is hereby repealed and the following substituted therefor:—

15. No work, unless it comes within the class provided for by section 13A of this Act shall be commenced until the approval of the Governor in

Council has been signified by public notice in the *Canada Gazette* and some newspaper published in the neighbourhood of the proposed works and named by the minister, which notice shall set forth the particulars mentioned in the memorial, with such changes or variations as the Governor in Council sees fit to order, and shall specify a time within which such works shall be completed. Such notice shall be published in not less than two successive issues of such newspaper, and shall be the authority for proceeding with the work. A copy of the notice shall also be recorded in a book specially kept for that purpose by the agent in the office for his district, and this record shall remain open for public inspection. If either the lands on which the water is to be applied or the waters to be used therefor are not confined to the territory assigned to any one agent, a record must be filed with each agent in whose territory any part thereof is situate.

7. Section twenty-two of the said Act is hereby repealed and the following substituted therefor:—

22. All maps, plans and books of reference showing any lands necessary to be acquired under the provisions of this Act by any person or company for right of way or for any purpose in connection with the construction and maintenance of the works must be signed and certified correct by a duly qualified Dominion land surveyor. Such maps, plans and books of reference shall be forwarded in duplicate to the Department of the Interior, and after examination and approval by the proper officer, one copy shall be filed in the Department of the Interior and the other registered by the applicant in the registry office for the land titles district within which the lands affected by such surveys are situated.

8. The provisions of sections thirty-five, forty-two and forty-three of the said Act shall not apply to any irrigation district incorporated under an Ordinance of the North-west Territories.

S.C. 1898 c.35

An Act to amend and consolidate the "North-west Irrigation Acts" of 1894 and 1895

[Assented to 13th June, 1898]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as the *North-west Irrigation Act*, 1898.

2. In this Act, unless the context otherwise requires,—

a) The expression "Minister" means the Minister of the Interior;

b) The expression "Department" means the Department of the Interior at Ottawa;

c) The expression "Commissioner" means the Commissioner of Public Works for the North-west Territories;

d) The expression "Chief Engineer" means the Chief Engineer and Surveyor of the Department of Public Works for the North-west Territories;

e) The expression "Dominion land surveyor" means a surveyor duly authorized, under the provisions of the *Dominion Lands Act*, to survey Dominion lands;

f) The expression "company" means any incorporated company, the object and powers of which extend to or include the construction or operation of irrigation or other works under this Act, or the carrying on thereunder of the business of the supply or the sale of water for irrigation or other purposes, and includes any person who has been authorized or has applied for authority to construct or operate such works or carry on such business or who has obtained a license under section 11 of this Act, and also includes any irrigation district incorporated under an ordinance of the North-west Territories;

g) The expression "works" means and includes any dykes, dams, weirs, flood-gates, breakwaters, drains, ditches, basins, reservoirs, canals, tunnels, bridges, culverts, cribs, embankments, headworks, flumes, aqueducts, pipes, pumps, and any contrivance for carrying or conducting water or other works which are authorized to be constructed under the provisions of this Act;

h) The expression "duty of water" means the area land that a unit of water will irrigate, which unit is the discharge of one cubic foot of water per second;

i) The expression "licensee" means any person or company who is granted a license in accordance with the provisions of this Act.

3. This Act shall apply to the North-west Territories, except the provisional districts of Yukon, Mackenzie, Franklin and Ungava.

4. The property in and the right to the use of all the water at any time in any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp, marsh or other body of water shall, for the purposes of this Act, be deemed to be vested in the Crown, unless and until and except only so far as some right therein, or to the use thereof, inconsistent with the right of the Crown, and which is not a public right or a right common to the public, is established; and, save in the exercise of any legal right existing at the time of such diversion or use, no person shall divert or use any water from any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp, marsh or other body of water, otherwise than under the provisions of this Act.

5. Except in pursuance of some agreement or undertaking existing at the time of the passing of this Act, no grant shall be hereafter made by the Crown of lands or of any estate, in such terms as to vest in the grantee any exclusive or other property or interest in or any exclusive right or privilege with respect to any lake, river, stream or other body of water, or in or with respect to the water contained or flowing therein, or the land forming the bed or shore thereof.

6. After the passing of this Act, no right to the permanent diversion or to the exclusive use of the water in any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp, marsh or other body of water, shall be acquired by any riparian owner or any other person by length of use or otherwise than as it may be acquired or conferred under the provisions of this Act unless it is acquired by a grant made in pursuance of some agreement or undertaking existing at the time of the passing of this Act.

7-1. Every company or person who holds water rights of a class similar to those which may be acquired under this Act, or who, with or without authority, has constructed or is operating works for the utilization of water, shall obtain a license under this Act before the first of July, one thousand eight hundred and ninety-eight.

7-2. If such license is obtained within the time limited, the exercise of such rights may thereafter be continued, and such works may be carried on under the provisions of this Act, otherwise such rights or works, and all the interest of such persons therein, shall without any demand or proceeding be absolutely forfeited to Her Majesty and may be disposed of or dealt with as the Governor in Council sees fit.

7-3. Except in case of applications for water for domestic purposes, as hereinafter provided, the applications for such license shall be made in the same manner as for other licenses under this Act and the like proceedings shall be had thereon and like information furnished in connection therewith.

8-1. Any water the property in which is vested in the Crown may be acquired, for domestic, irrigation, or other purposes, upon application therefor as hereinafter provided; and all applications made in accordance with the provisions of this Act shall have precedence, except applications under section 7, according to the date of filing them with the commissioner.

8-2. The purposes for which the right to water may be acquired are of three classes, namely: First, domestic purposes, which shall be taken to mean household and sanitary purposes and the watering of stock, and all purposes connected with the working of railways or factories by steam, but shall not include the sale or barter of water for such purposes; second, irrigation purposes; and third, other purposes.

9. No application for any purpose shall be granted where the proposed use of the water would deprive any person owning lands adjoining the river, stream, lake or other source of supply of whatever water he requires for domestic purposes.

10. Any person contemplating or projecting any works under this Act, may, upon submitting a general description of such works and upon payment of a fee of three dollars, obtain from the chief engineer a license to do the necessary preliminary work in connection with the location of such works; and after he obtains such license, he may, with such assistants as are necessary, enter into and upon any public or private lands to take levels, make surveys, and do other necessary work in connection with such location, doing no unnecessary damage.

11. Every applicant for license under this Act, except as hereinafter provided, shall file with the commissioner the following documents:—

a) a memorial, in duplicate, on forms provided by the commissioner, in which the applicant shall set forth his name, residence and occupation, his financial standing, the source from which water is to be diverted, the point of diversion, the probable quantity of water to be used, the size and character of the works to be constructed, the area and location of the land to be irrigated, the value of such land in its present state, including improvements, the probable number of consumers, and the rate, if any, to be charged for water sold; but if the applicant is an incorporated company, the memorial shall also set forth the names of its directors and officers and their places of residence, the date of its incorporation, the amount of the company's subscribed capital, the amount of its paid-up capital, the proposed method of raising further funds, if needed, and the purposes for which the company is incorporated;

b) an application, on forms provided by the commissioner, for the right to construct any canal, ditch, reservoir, or other works referred to in the memorial, across any road allowance or surveyed public highway, which may be affected by such works;

c) a general plan, in duplicate, on tracing linen, drawn to a scale of not less than one inch to a mile, showing the source of supply, the position of the point of in-take, the location of the main canals or ditches, the tract of land to be irrigated, the name of the owner of each parcel of land crossed by the canal, or ditch, or by any reservoir or other works connected therewith, or to be irrigated therefrom, and the position and area of all ponds, reservoirs and basins intended to be constructed for the storage of water; and

d) a plan, in duplicate, on tracing linen, showing in detail all headworks, dams, flumes, bridges, culverts or other structures to be erected in connection with the proposed undertaking.

12. In the case of all ditches or canals carrying more than twenty-five cubic feet of water per second, in addition to the above information the applicants shall furnish the following maps or plans, in duplicate; —

a) a longitudinal profile of the ditch, showing the bottom and the proposed service water line, the horizontal scale being not less than one inch to four hundred feet, and the vertical scale not less than one inch to twenty feet;

b) a plan showing cross-sections at a sufficient number of points to fully illustrate all the different forms which the ditch when constructed will take, particularly on side-hills or elsewhere where any portion of the water is to be conveyed in fill. When water is to be conveyed in cut there shall also be shown on this plan cross-sections at points where the shortest horizontal distance from either side of the bottom of the ditch to the surface of the ground is less than double the bottom width of the ditch at that point. This plan shall be drawn on a horizontal and vertical scale of one inch to twenty feet;

c) plans of any dams, cribs, embankments or other works proposed to obstruct any river, stream, lake or other source of water supply or in order to create a pond, reservoir or basin of water anywhere, or which may have that effect, prepared on a longitudinal scale of not less than one inch to one hundred feet, and for cross-sections on a scale of not less than one inch to twenty feet, and showing what material is intended to be used and how placed in such works. The timber, brush, stone, brick or other material used in such works shall be shown in detail to a scale of not less than one inch to four feet;

d) cross-section maps or plans showing the surface of the ground under such pond, reservoir or basin of water, and also the surface of the water proposed to be held therein; the horizontal scale of the said maps or plans shall be not less than one inch to one hundred feet; and the vertical scale shall be not less than one inch to twenty feet; and a sufficient number of lines of levels shall be shown, so that the contents of the pond, reservoir or basin of water may be accurately determined. If the maps or plans show the levels by contour lines, they shall be on a scale sufficiently large that the contour lines, shall show a vertical distance between them not exceeding one foot. The maps or plans shall have sufficient information to show clearly the property likely to be affected by the creation of such ponds, reservoirs or basins of water, and the manner in which affected, and shall show in detail, on a scale of not less than one inch to four feet, the proposed manner of controlling and drawing off the water from any such pond, reservoir or basin.

13. The memorials and plans filed as above prescribed, or a true copy thereof, shall be open for examination by the public at all times in the department and at the office of the commissioner at Regina.

14. In any case in which he thinks proper, the Minister may direct that a copy of the memorial and plans shall be filed in such other place or with such other official or person as he names for that purpose, and such copy also shall be open to public inspection.

15-1. Public notice of the filing of the memorial and plans shall forthwith be given by the applicant in some newspaper published in the neighbourhood, to be named by the commissioner, not less than once a week for a period of thirty days, within which time all protests against granting the rights applied for shall be forwarded to the Minister, and such notice shall contain a statement of the nature of the rights applied for, and the general character and location of the proposed works;

15-2. The Minister after considering all protests filed, may authorize, as hereinafter provided, the construction of the proposed works, with such changes or variations as he deems necessary.

16-1. The memorial and plans filed with the commissioner as herein provided shall be examined by the chief engineer, and, after having been approved by him, one copy shall be forwarded for record purposes in the department; and, upon receipt of such memorial and plans, properly approved, together with a certificate that the proper notice of the filing of such memorial and plans has been published, and that permission has been granted by the commissioner to construct such works across road allowances or surveyed public roads affected thereby, the Minister may authorize the construction of the proposed works, fixing in such authorization a term within which the construction of the works is to be completed.

16-2. Any changes and variations ordered by the Minister regarding the plans of the proposed works must be filed by the applicant in the office of the commissioner and shall form a portion of the record open for public inspection.

16-3. No material deviation from the plans filed shall be made without permission, and any question arising as to whether any deviation is material or otherwise shall be decided by the chief engineer or such other officer as the Minister designates.

17. In the case of applications for water for domestic or irrigation purposes the Minister may, if he sees fit, waive the necessity for filing the plans required by section 11 of this Act, and may require the applicants to file a memorial only, but he may order that such memorial shall contain all the information necessary to a full and complete understanding of the rights applied for.

18-1. Any works authorized under this Act shall, if the Minister so determines, be constructed subject to inspection during construction by the chief engineer or any other officer to be named by the Minister; and the cost of such inspection or such portion thereof as the Minister decides, shall be borne by the person or company constructing such works.

18-2. Should any person residing on or owning land in the neighbourhood of any works, either completed or in course of construction, apply to the Minister in writing desiring an inspection of such works, the Minister may order an inspection thereof.

18-3. The Minister may require the applicant for inspection to make a deposit of such sum of money as the Minister thinks necessary to pay the expenses of an inspection, and in case the application appears to him not to have been justified may cause the whole or part of the expenses to be paid out of such deposit.

18-4. In case the application appears to the Minister to have been justified, he may order the person or company to pay the whole or any part of the expenses of the inspection, and such payment may be enforced as a debt due to Her Majesty.

18-5. Upon any inspection under the provisions of this section the Minister may order there person or company to make any addition or alteration which he considers necessary for their security to or in any works of the person or company, and noncompliance with such order may be dealt with in the same manner as is provided with respect to an order of the Minister under section 40 of this Act.

18-6. Provided that where under section 17 the Minister waives the necessity for plans this section shall not apply.

19. The person or company, immediately after the receipt of the authorization, may proceed with the construction of the works authorized, and for the purposes of such construction shall have the powers conferred by the *Railway Act* upon railway companies so far as the same are applicable to the undertaking of the person or company and are not inconsistent with the provisions of this Act or with the authority given to the person or company, the provisions conferring such powers being taken for this purpose to refer to any work of the person or company where in the said Act they refer to the railway.

20-1. The construction of any work authorized under this Act shall be commenced not later than two months after the date of the authorization, unless such two months expire between the first day of November and the first day of May following, in which case the time of commencement shall not be later than the first day of May following, and shall proceed continuously until sufficiently completed to supply water to all applicants within the area described in the authorization, provided there is sufficient water available for that purpose; and the Minister or such officer as he designates, shall be the sole arbiter as to whether the work is being prosecuted with sufficient vigour.

20-2. Should any unforeseen disaster intervene to prevent the construction or completion of the work within the time limited, or for any other reasons which he deems sufficient, the Minister may authorize an extension of time for the commencement or completion of the works.

20-3. Upon the expiration of the time limited for the completion of the works, the rights granted to the person or company shall cease and determine, except in so far as they are necessary for effectually operating the works then completed; and any works at the date of such forfeiture constructed or acquired, may be taken over and operated or disposed of by the Minister in the manner and upon the terms hereinafter provided.

21-1. Lands required for the works of the person, or company, as shown by the maps and plans filed, in whomsoever they are vested, whether in Her Majesty or in any person or company under this Act, or in any railway company, or in any other person whomsoever, or any interest in or right or privilege with regard to such land which is so required, may be taken and acquired by the person or company; and to this end all the provisions of the *Railway Act* which and so far as they are applicable to such taking and acquisition, shall apply as if they were included in this Act, the Minister of the Interior and the Department of the Interior being substituted for the Minister of Railways and Canals and the Department of Railways and Canals, respectively, wherever in the provisions of the said Act the latter minister and department are referred to: Provided, that the Minister of the Interior may impose such terms and conditions as he thinks proper in the public interest in connection with the acquisition under this section of any lands which are vested in any person or company under this Act, or in any railway company, or of any interest in such lands or any right or privilege affecting such lands.

21-2. All the provisions of the *Railway Act* which are applicable shall in like manner apply to fixing the amount of and the payment of compensation for damages to lands arising out of the construction or maintenance of the works of the person or company or the exercise of any of the powers granted to the person or company under this Act.

22. All maps, plans and books of reference showing any lands other than Crown lands necessary to be acquired under the provisions of this Act, by any person or company for right of way or for any purpose in connection with the construction and maintenance of their works, must be signed and certified correct by a duly qualified Dominion land surveyor. Such maps, plans and books of reference shall be prepared in duplicate, and one copy shall be filed in the office of the commissioner and the other registered by the applicant in the land titles office for the registration district within which the lands affected by such surveys are situated.

23. The Minister or such officer as he designates, shall, in case of dispute, be the sole arbiter as to the area of land which may be taken by the person or company without the consent of the owner for any purpose in the construction or maintenance of their works.

24-1. Upon the expiration of the time mentioned in the authorization for the construction of any works, or at any time before such date, if the construction is sooner completed, an inspection shall be made by the chief engineer or such other officer as the Minister appoints; and a certificate shall be issued by the chief engineer and be forwarded to the department setting forth that the works have been completed in accordance with the application, that the right of way for the works has been obtained, that agreements have been entered into for the supply of water for the irrigation of lands which are not the property of the applicant, and that the works as constructed are capable of carrying and utilizing a stated quantity of water.

24-2. Upon receipt of such certificate the Minister shall issue a license to the applicant for the quantity of water to which he is entitled, and such license shall be recorded in the office of the commissioner at Regina.

25. Licensees shall have priority among themselves according to the number of their licenses, so that each licensee shall be entitled to receive the whole of the supply to which his license entitles him, before any licensee whose license is of a higher number has any claim to a supply; and if a complaint is made to the Minister, or to any officer authorized by him to receive such complaints, that any licensee is receiving water form a source of supply to which another licensee is entitled by virtue of priority of right, and that the

licensee having such priority of right is not receiving the supply to which he is entitled, some officer to be named by the Minister or the officer to whom complaint is so made, as the case may be, shall inquire into the circumstances of the case, and, if he finds that there is ground for the complaint, shall cause the head-gates of the ditch or other works of the licensee who is receiving an undue supply of water to be closed, so that the supply to which the other licensee is entitled shall pass and flow to his works.

26. When any works for carrying water are not of sufficient capacity to carry the quantity of water acquired by their owner, his exclusive right shall be limited to the quantity which such ditch, flume or other contrivance is capable of carrying; and in case of dispute as to such quantity the Minister may order an inspection of the works; and the report and finding of the inspecting officer as to the capacity thereof shall, for the purposes of this section, be final and conclusive.

27. When the land to be irrigated by the water granted to a licensee is land for which letters patent from the Crown have not been issued, being held by the licensee under a homestead or other conditional entry or a lease in accordance with the provisions of the *Dominion Lands Act*, or under an agreement to purchase such land, the license for such water shall be cancelled upon receipt by the Minister of a certificate of the cancellation of such homestead or other conditional entry, lease or sale agreement; but the water right necessary for the irrigation of such land may be reserved for such time as the Minister determines, and may be disposed of, together with all works connected therewith, to the next occupant or purchaser of such land, upon such terms and conditions as the Minister determines; and the new license issued for such water shall have the same number and hold the same priority of right as the original or cancelled license.

28-1. Every person and every company and the officers and directors thereof shall afford to any inspecting officer such information as is within their knowledge and powers in all matters inquired into by him, and shall submit to such inspecting officer all plans, specifications, drawings and documents relating to the construction, repair or state of repairs of the works or any portion thereof.

28-2. The production of instructions in writing signed by the Minister or his deputy or the secretary of the Department of the Interior, shall be sufficient evidence of the authority of such inspecting officer.

29. Every person who wilfully obstructs an inspecting officer in the execution of his duty shall be liable, on summary conviction, to a penalty not exceeding twenty dollars, or to imprisonment for a term not exceeding two months, with or without hard labour, or to both.

30. Every person who interrupts, molests or hinders in his work any engineer or Dominion land surveyor engaged in making surveys or levels, or in other operations in connection with any work authorized under this Act, is guilty of an offence, and liable, on summary conviction, to a penalty not exceeding twenty dollars, or to imprisonment for a term not exceeding two months, or to both.

31. Every person who, wilfully without authority, takes or diverts any water from any river, stream, lake or other waters or from any works authorized under this Act, or who takes or diverts therefrom any greater quantity of water than he is entitled to, is guilty of an offence, and liable, upon summary conviction to a fine not exceeding five dollars per day or fraction of a day for

each unit or fraction of a unit of water improperly diverted, or to imprisonment for a term not exceeding thirty days, or to both, and upon indictment to a fine not exceeding five dollars per day or fraction of a day for each unit or fraction of a unit of water improperly diverted, or to imprisonment for a term not exceeding thirty days, or to both.

32-1. No licensee shall divert more water than the quantity actually granted by his license, and any licensee so doing shall be guilty of an offence punishable on summary conviction by a fine not exceeding five dollars per day, or fraction of a day, for each unit or fraction of a unit of water so diverted.

32-2. In case of dispute as to the quantity of water diverted, the Minister may order an inspection of the works of the licensee by an officer named by him for that purpose; and for the purposes of this section, the report and finding of such officer as to the quantity diverted shall be final and conclusive.

33. When any licensee abandons or ceases to use or wastes any waters to which his license entitles him and any charge of such abandonment or ceasing to use or wasting waste water is made to the Minister, such charge may be inquired into by him or by any person or officer appointed by him for that purpose; and the Minister, if he deems just and proper, may, by order declare a forfeiture of the license, and the license so ordered or declared to be forfeited shall be cancelled and shall cease and determine.

34-1. Any licensee shall dispose of any surplus water flowing in his works which is not being utilized or used for the purposes authorized, to any person applying therefor for irrigation purposes and tendering payment for one month in advance at the regular prices.

34-2. Persons so applying shall pay an amount equal to the cost and expense of the works required to convey the surplus water to them, or shall themselves construct such works; and until this is done the delivery of surplus water need not be made.

34-3. When the necessary works have been constructed and the payment or tender herein provided for has been made, the applicant shall be entitled to the use of so much of the surplus water as such works have the capacity to carry.

34-4. Nothing in this section shall be construed to give to any person acquiring the right to use surplus water any right to the said surplus water when it is needed by the licensee for the purposes authorized, or to waste or sell or dispose thereof after being used by him, or shall prevent the original owners from retaking, selling or disposing thereof in the usual or customary manner after it has been so used as aforesaid.

35-1. No licensee undertaking to sell water conveyed by his works shall, subsequent to the first four years after the construction of such works as are necessary to convey the water to the user, discriminate between the users of such water regarding the price thereof.

35-2. If from any cause the whole amount of water agreed to be supplied by a licensee is not available, then each user shall have furnished to him by the licensee so much water as shall bear to the available water the same proportion as his usual supply bears to the whole amount agreed to be furnished.

35-3. Any licensee violating these provisions shall be guilty of an offence against this Act and liable upon summary conviction to a fine not exceeding one thousand dollars for each and every such offence, or to imprisonment for a period not exceeding two months, or to both.

36-1. The Minister may grant to any licensee the right to store for irrigation purposes during periods of floods or high water, or during those portions of the year when water is not required for irrigation purposes, any water not being used during such periods.

36-2. Should there be any works for the carriage of water which are not being utilized to their full capacity by their owner, and which can with advantage be utilized to carry the whole or any portion of the water desired to be stored any portion of the distance it is required to be so carried or conducted, without interfering with the use made of the said works by their owner, then the said works shall be placed at the disposal of the licensee desiring to so use it; and if the parties cannot agree upon the compensation to be paid for such service, the Minister may fix the rate to be paid therefor.

37. Any person or company constructing any works under the provisions of this Act, shall during such construction keep open for safe and convenient travel all public highways theretofore publicly travelled as such, when they are crossed by such works, and shall, before water is diverted into, conveyed or stored by any such works extending into or crossing any such highway, construct, to the satisfaction of the Minister, a substantial bridge, not less than fourteen feet in breadth, with proper and sufficient approaches thereto, over such works; and every such bridge and the approaches thereto shall be always thereafter maintained by such person or company.

38. Under this Act the discharge of one cubic foot of water per second shall be the unit of measurement of flowing water, and the cubic foot or acre foot, the unit of measurement of quantity. The acre foot is equivalent to forty-three thousand five hundred and sixty cubic feet.

39-1. Companies obtaining a license under this Act shall, on or before the thirty-first day of January in each year, make a return to the Minister, attested by the oath of its president and secretary, for the year ending the thirty-first day of December preceding, showing:

The amount expended on construction;
The amount expended on repairs;
The amount received from shareholders;
The amount of bonds issued;
The amount received for water supplied for irrigation;
The amount received from other sources;
The amount of dividend declared and paid;
The amount of capital stock authorized;
The amount of capital stock subscribed;
The amount of capital stock paid up to date;
The amount of bonded indebtedness;
The amount bonds sold for;
The rate of interest bonds bear;
The amount of indebtedness other than bonds, and the rate of interest such indebtedness is bearing;
The cost of management;
A statement of the works, and their extent and character;
The number of miles of canals, ditches, etc;
The number of users;

The number of acres actually under irrigation;
The number of acres of irrigable land in the system;
The names of officers and employees;
The proposed extensions during ensuing years and the acreage to be covered thereby;
Such other data as the Governor in Council sees fit to order.

39-2. Attached to such annual return shall be a copy of the by-laws of the company, showing all amendments thereto during the year covered by the said return.

39-3. The returns required by this section may be waived by the Minister in the case of a private person supplying water solely to himself.

40-1. When a complaint, under oath of the complainant and of at least one witness, is made to the Minister or the commissioner by a consumer of water who has paid his rates, that a licensee who has engaged or is under obligation to supply him with water is failing to do so, or is failing to keep his works in proper condition, the Minister or some person or officer appointed by him for the purpose may make immediate inquiry and take all necessary steps to ascertain the truth of the complaint, and, if he considers the complaint established, may order and direct that the licensee shall take forthwith such action as he considers necessary in order as far as possible to remove the cause of complaint.

40-2. If the licensee fails to obey such order, the Minister shall forthwith issue a certificate to that effect, reciting all the facts, which certificate being presented to the judge of the Supreme court for the judicial district within which such works lie, the judge shall hear and determine the matter in a summary manner, and shall order the licensee to proceed with all despatch to take such measures as he considers necessary in the premise; and refusal or neglect to obey any order made by a judge under this section may be treated and punished as contempt of court, and such other proceedings may be had and taken thereon as in the case of non-compliance with any other mandatory order of the said court or a judge thereof.

41. The Governor in Council may authorize two or more companies whose works are contiguous, to unite and form one company with a view to providing increased water supply and extending their works, when he is satisfied that the holders of more than fifty per cent of the capital stock of each company are in favour of the union, that users dependent upon the water supply will not be injured, and that the companies to be united have the necessary financial means for carrying out the proposed undertaking,—the same particulars being furnished to the Governor in Council as are required to be furnished upon an application for authorization to construct works under this Act; and public notice of the authorization of the united companies and their proposed works shall be given in the manner prescribed under section 15.

42. The Minister or any one specially authorized by him may, when he deems it necessary for the satisfactory carrying out of the provisions of this Act or the regulations to be framed under it, summon before him any person by subpoena, examine such person under oath, and compel the production of papers and writings; and for neglect to obey such summons or refusal to give evidence, or to produce the papers or writings demanded of him, the Minister or the person authorized may, by warrant under his hand, order the

person in default to be imprisoned in the nearest common jail as for contempt of court, for a period not exceeding fourteen days.

43. All affidavits, oaths, solemn declarations or affirmations required to be taken under this Act or any regulations made thereunder, may be taken before the chief engineer, or any persons specially authorized by the Minister to take them, or any other persons authorized to take affidavits in the North-west Territories; and the Minister may require any statement called for under this Act, or under any such regulation, to be verified by oath, affidavit, affirmation or declaration.

44. The Minister may take such steps as he deems necessary at any time to secure a complete or partial survey of the sources of the water supply for irrigation and other purposes, with an estimate of the extent and location of irrigable lands, and of the site or sites suitable for ponds, basins and reservoirs for water storage, and may reserve lands forming such sites from general sale and settlement and dispose thereof by sale or lease to be utilized for purposes within the purview of this Act. He may also take such steps as he thinks necessary to protect the sources of water supply and to prevent any act likely to diminish or injure the said supply.

45. The Minister may from time to time authorize the establishing in rivers, streams, lakes and other waters, water gauges for computing the approximate volume and discharge of waters, the placing of high water marks on rivers and streams, lakes and other waters when in flood, the taking of steps for securing analyses of the water of rivers, streams, lakes and other waters, and the adopting of such other measures and proceedings for promoting the beneficial use of water, and for controlling and regulating the diversion and the application thereof as he finds necessary and expedient and as are consistent with the provisions of this Act.

46. The Governor in Council may, if in the public interest it is at any time deemed advisable so to do, take over and operate or otherwise dispose of the works of any licensee authorized under this Act: Provided, that compensation shall be paid for such works at their value,—such value to be ascertained by reference to the Exchequer Court, or by arbitration, one arbitrator to be appointed by the Governor in Council, the second by the licensee, and the third by the two so appointed, or, in case these cannot agree as to the third arbitrator, by the Exchequer Court,—and in estimating such value the court or the arbitrators may take into account the expenditure of the licensee and interest on such expenditure, and the value of his property, works and business: Provided also, that no person who at such date is using the water of the said works, shall be deprived of the quantity of water he is entitled to: Provided further, that in any such case the Governor in Council shall have due regard to the claims to consideration of any persons who are prepared or have in course of preparation any land to be supplied with water by the works taken over.

47. The by-laws and regulations of companies operating under this Act shall not contain anything contrary to the true intent and meaning of this Act, and shall be subject to revision and approval by the Minister; and no tariff of charges for water furnished by any licensee shall come into operation until it has been approved by the Minister.

48. Any company authorized under this Act may issue bonds, debentures or other securities to the amount of its subscribed capital, or double the amount of its paid-up capital, whichever is the smaller amount.

49. Any company authorized under this Act may acquire land by purchase or lease for improvement by irrigation, and shall dispose thereof within fifteen years after its acquisition, otherwise such land shall revert to the Crown; excepting however such lands are actually under cultivation or are being used for farming, gardening stock-raising, dairying, horticulture, tree-planting and forestry: Provided that the lands so excepted do not comprise more than ten per cent of the total area of land brought under irrigation by the company.

50. Any company authorized under this Act may for the purposes of its undertaking construct or acquire electric telegraph and telephone lines or any other contrivances for the transmission of messages through or along wires, rods, tubes or other appliances, and may acquire any land necessary for the construction and operation of such lines or contrivances, and the lands necessary to be taken and acquired for this purpose may be acquired under the provisions of section 21 of this Act.

51. The Minister may—

define the manner in which the measure of water shall be arrived at;

define the duty of water according to locality and soil;

define the portion of the year during which water shall be supplied for irrigation;

fix the fee or charge to be paid for licenses issued under this Act, —which fees or charges may be varied according to the capital employed or volume of water diverted;

regulate the extent of diversion from rivers, streams, lakes or other waters;

regulate the passage of logs, timber and other products of the forests through or over any dams or other works erected in rivers, streams, lakes and other waters under the authority of this Act;

regulate from time to time the water rates which may be charged by licensees, and the publication of tariffs of rates;

prescribe forms to be used in proceedings under this Act;

impose penalties for violations of any regulation made under the authority of this Act,—which penalties shall in no case exceed a fine of two hundred dollars or three months' imprisonment, or both;

regulate the manner in which water is to be supplied to persons entitled thereto, whether continuously or at stated intervals, or under both systems;

authorize some person or officer, whose decision shall be final and without appeal, to decide in cases of dispute as to what constitutes surplus water as mentioned in this Act;

make such orders as are deemed necessary, from time to time, to carry out the provisions of this Act according to their true intent, or to meet any cases which arise and for which no provision is made in this Act; and further, make any regulations which are considered necessary to give the provisions of this Act full effect.

52. All regulations made and forms prescribed by the Minister under this Act shall be published in the *Canada Gazette* and shall be laid before both Houses of Parliament within the first fifteen days of the session next after the date thereof.

53. Any companies already formed to promote irrigation shall be subject to

all the provisions of this Act, except so far as the powers mentioned in section 48 are concerned.

54. The provisions of sections 41, 48, and 49 of this Act shall not apply to any irrigation district incorporated under an ordinance of the North-west Territories.

55. The *North-west Irrigation Act* being chapter 30 of the statutes of 1894, and chapter 33 of the statutes of 1895, in amendment thereof, are hereby repealed.

Regulations

O.C. 11 October 1894

By Order in Council of the 11th of October, 1894, in virtue of the provisions of section 45 of the *North-west Irrigation Act*, 57-58 Victoria, chapter 30, the following forms to be used in proceedings under the said Act were prescribed:—

No. 1

Memorandum of instructions regarding the manner of surveying and preparing the returns of surveys of right of way of irrigation ditches, and works in connection therewith.

To prevent confusion or misunderstanding regarding the manner of effecting the field work, and to provide for uniformity in returns of right of way surveys for irrigation ditches, and works in connection therewith, the following instructions are laid down for the official guidance of those performing this class of work:—

1. Right of way surveys for irrigating ditches are of two kinds: preliminary surveys, and final surveys. The first mentioned are made in connection with proposed locations staked out for main ditches and laterals, to enable companies or individuals to file the preliminary plans required by their Acts of incorporation, or the *General Irrigation Act*, and the latter, or final surveys, are made when the ditch routes, etc. have been finally located and construction begun, to enable final plans and books of reference to be filed, and title to right of way to be conveyed.

2. The preliminary surveys for right of way are to be made in manner provided by clause 3 of these instructions, and the plan showing the same is to be signed by the promoter, manager, or engineer of the company and certified in accordance with form C of these instructions.

The final surveys of right of way must be made by a duly authorized Dominion land surveyor, and all plans and books of reference of such surveys must be signed by the surveyor, and contain the certificate given in forms A and B of these instructions.

Preliminary Surveys

3. Preliminary surveys are to be made by re-tracing the proposed centre line of main and lateral ditches, and determining, by measurement, the position of such lines with reference to the boundaries of sections, quarter-sections or other registered parcels of land intersected.

Where it is proposed to create reservoirs, or to flood lands by erections of dams, the approximate boundaries of the area to be flooded are to be determined.

Should the preliminary location of main ditch contemplate the utilization of the dry beds of old watercourses, or other natural channels, as a portion of the scheme, the position and boundaries of such watercourses, or other channels are, to be determined with sufficient accuracy to enable them to be laid down on a plan.

In all cases where it is proposed to increase the width of the right of way, for the purpose of borrow pits, headworks, building, or other causes, the limits of the increased area are to be approximately located and shown on the plan.

Final Surveys

4. The final survey of the right of way is to be made after the final coating of main and lateral ditches, and prior to or during the work of construction. The survey must be made in such a manner as to determine accurately the boundaries of right of way with reference to boundaries of sections, quarter-sections, and other registered parcels of land. To accomplish this it will be necessary to determine, by measurement, the distance from the intersection of centre line of ditch to all section and quarter-section corners, and corners of other registered parcels of land, and the angles between such boundaries and centre line.

Where it is necessary to do so the boundaries of quarter-sections must be first surveyed in accordance with provisions of the *Dominion Lands Act*, so that angles and distances from ditch line can be properly determined on these boundaries.

In cases where it is desired to increase the limits of right of way for borrow pits, headworks, buildings, etc., the limits of such increased area are to be determined.

Where it is proposed to utilize the dry beds of old watercourses, or other natural channels, for main or lateral ditches, the boundaries of such watercourse, swamp, or other natural channel are to be determined by offsets from main traverse lines. The traverse lines are to be so laid down that no offset therefrom will be of greater length than 300 feet, and the offsets are to be at such distance from each other as to provide that the area of the feature traversed will be determined within a close approximation of the actual area.

Where reservoirs are to be created, or land flooded by erection of dams, the area and limits of such reservoirs, or flooded area, are to be accurately determined by traverse lines and offsets as provided above.

The length and radii of all curves on ditch lines are to be determined.

Returns of Survey

5. In the case of preliminary surveys the returns will consist of a plan (on tracing linen, or blue print) drawn to a scale of 1,000 feet to one inch. This plan is to contain all the information furnished by the survey made in accordance with instructions regarding preliminary surveys, and is to be certified in accordance with form C of these instructions.

The returns of final surveys for right of way will consist of a plan, prepared in all cases on tracing linen, and a book of reference.

The plan will be drawn to a scale of 1,000 feet to one inch, and must contain all the information supplied by the surveys made in accordance with instructions regarding final surveys, and in addition must show the width and area of right of way included within the boundaries of each quarter-section, or other registered parcel of land: the plans must be fair specimens of draughtsmanship and all figures and references must be clear and distinct. The plan is to be certified in accordance with forms A and B of these instructions.

The book of reference is to be made of the same size, and in accordance with sample accompanying these instructions. The right of way across each quarter-section, or other registered parcel of land, is to be accurately plotted on form, and all the information given on general plan is to be shown on section forms in book of reference.

The descriptions will be given for each quarter-section, or other registered parcel of land, separately, and must be in such form, and sufficiently complete, to be used in a conveyance of the land described.

In all cases where traverses are made to determine the limits of old water-courses, or land to be flooded, which are to become a portion of the right of way, the sectional form in book of reference will be accompanied by a traverse table for each section separately, giving lengths and bearings of courses and offsets. This table is to be made in accordance with form shown.

The book of reference shall contain the certificates given in forms A and B of these instructions.

6. It is to be distinctly understood that the government will in no wise be responsible for payment of accounts for services of the surveyor, or any other expense incurred in connection with these surveys, or return thereof, it being the duty of irrigation companies, or individuals constructing private ditches, to make these surveys, and file with the department the returns thereof, at their own cost.

Form A

I, , Dominion land surveyor, do solemnly declare that this plan (or book of reference, as the case may be) accurately shows the manner in which the land included therein has been surveyed and subdivided by me, and that the said plan is prepared in accordance with the provisions of the *Territories Real Property Act*, chapter 51 of the *Revised Statutes of Canada*.

Dated at , 18 .

A.B.,
Dominion Land Surveyor.

Form B

I , of the of , Dominion land surveyor, make oath and say, that I have, in my own proper person, according to law and the instructions of the surveyor general, faithfully and correctly executed the survey shown by this plan and book of reference, and that the said plan and book of reference are correct and true to the best of my knowledge and belief. So help me God.

A.B.,
Dominion Land Surveyor.

Sworn before me at this day of ,18 .

Form C

I, , do hereby certify that this plan accurately shows the manner in which the preliminary surveys, for the proposed right of way for the Irrigation Company have been made, and that the information therein contained is from actual measurements on the ground.

Dated at , 18 .

A.B.,
Promoter, Manager or Engineer,
as the case may be.

No. 2

Memorandum of instructions regarding the preparation of the plans, profiles and specifications required by the *North-west Irrigation Act*.

It is provided by the *North-west Irrigation Act* that companies or individuals applying for a license or authorization under its provisions must file certain plans, profiles, cross-sections and specifications showing the proposed location of canals and ditches, and giving details of the structures to be erected in connection therewith.

The Act is explicit regarding the scale of, and general information to be furnished by, these plans, profiles, etc., but to prevent misunderstanding and delay, it is thought expedient to issue, in convenient form for reference, these detailed instructions regarding the manner of preparing the different plans, profiles, cross-sections and specifications, required by the Act, and the information which they will be expected to provide.

For convenience of reference the sections or portions of sections are given in the same order, regarding maps, plans, profiles, etc., as in the Act, with the necessary additional instructions added thereto.

12-4. Attached to the memorial shall be a general map or plan on a scale of not less than one inch to half a mile, showing the tract to be served by such water, the location of all rivers, streams and other sources of water supplied therein, and the probable location of the proposed works also the position and area of all ponds, reservoirs or basins intended to be created for the purposes of storing water or which may have that effect.

This map should be on tracing linen; the general topographical features may be laid down from a late edition of any general map issued by the Department of the Interior.

The proposed location of canals or ditches should be shown by a bold line, and the tract of country to be served, and areas of reservoirs, ponds or basins, should be designated with a wash of different colours, with suitable references.

The map or plan should be dated and signed by the engineer, individual owner or some official of the company, as the case may be.

12-5. There shall also be filed with the memorial plans in detail of all bridges or culverts necessary for the road or farm crossings over or under the works of the company, also plans in detail of flumes, headworks, dams or other structures for the diversion or use of water, such plan to be on a scale of not less than one inch equal to four feet.

The plans called for by this subsection should be prepared on tracing linen; they must contain full information in the way of plan, elevation and cross-section showing the details of, and the materials to be used in, the proposed structures, so that all loads, strains, or pressure may be understood and checked.

The plans should be accompanied by a detailed specification regarding the manner of erecting the proposed structures, and both plan and specification should be signed by the engineer, individual owner or some officer of the company, as the case may be.

12-6. In the case of all ditches or canals carrying more than twenty-five cubic feet of water per second, in addition to the above information the applicants shall furnish the following maps or plans:—

a) A longitudinal profile of the ditch, showing the bottom and the proposed surface water line. The horizontal scale of this plan shall not be less than one inch to four hundred feet, and the vertical scale not less than one inch to twenty feet.

b) A plan showing cross-sections at a sufficient number of points to fully illustrate all the different forms which the ditch when constructed will take, particularly on side hills or elsewhere where any portion of the water is to be conveyed in fill. When water is to be conveyed in cut there shall also be shown on this plan cross-sections at points where the shortest horizontal distance from either side of the bottom of the ditch to the surface of the ground is less than double the bottom width of the ditch at that point. The plan shall be drawn on a horizontal and vertical scale of one inch to twenty feet.

The plans required by these subsections are to be prepared on tracing linen. The profile must give the datum used, and must contain elevations at a sufficient number of points to enable the proposed location to be carefully checked; the proposed grade of canal or ditch must be laid down with a clear and well defined line, and must be shown also in figures along such grade line. The position of all dams, headworks, flumes, bridges, road crossings, or other structures must be noted on profile. The elevations given must be from instrumental levels along the proposed location, and a sufficient number of bench marks must be established, and their position and elevation shown on profile, so that levels on portions of location between bench marks may be checked by the inspection officer if he desires to do so.

The cross-sections required by subsection b) may be plotted on the profile opposite the points where they have been taken; they must be so placed and plotted as to enable a ready determination of the slope and contents to be made. Particular attention is directed to the provisions of this subsection regarding information to be given at cross section where water is to be conveyed in cut. The kind of material to be moved at each cross-section should be shown. The profile is to be signed by the engineer who has made the location survey and measures the cross sections given.

12-7. Plans of any dams, cribs, embankments or other works proposed to obstruct any river, stream, lake or other source of water supply, or in order to create a pond, reservoir or basin of water anywhere, or which may have that effect, shall be prepared on a longitudinal scale of not less than one inch to one hundred feet, and for cross-sections on a scale of not less than one inch to twenty feet, and shall show what material is intended to be used and how placed in such works. The timber, brush, stone, brick, or other material used in such works shall be shown in detail on a plan, the scale of which shall not be less than one inch to four feet.

The plans called for by this subsection are to be prepared on tracing linen, and in their preparation particular care is to be taken to give such information by plan, elevation and cross-section as will enable the size, style and location of any proposed structure to be thoroughly understood, and all strains, loads and pressure carefully checked; the kind of material to be used and manner of placing the same must be clearly shown.

It is important that the proposed method of placing the footings of any dam, crib, or embankment should be given in detail drawings, and that these drawings should show the high water line on such dam, crib, or embankment.

When cribs or piers are to be erected in any river or stream the proposed method of protecting them from ice must be shown.

These plans must be signed by the engineer who designs the proposed structures, and should be accompanied by a general specification regarding the manner of erecting the same.

12-8. Cross-section maps or plans showing the surface of the ground under such pond, reservoir or basin of water, and also the surface of the water proposed to be held therein; the horizontal scale of same maps or plans shall be not less than one inch to one hundred feet; and the vertical scale shall be not less than one inch to twenty feet, and a sufficient number of lines of levels shall be shown, so that the contents of the pond, reservoir or basin of water, may be accurately determined. If the maps or plans shown the levels by contour lines, they shall be on a scale sufficiently large, so that the contour line, showing a vertical distance between them not exceeding one foot, can be accurately delineated. The maps or plans shall have sufficient information to show clearly the property likely to be affected by the creation of such ponds, reservoirs, or basins of water and the manner in which affected, and shall show in detail such other particulars as the minister or Governor in Council sees fit to order, and there shall also be furnished a plan, on a scale of not less than one inch to four feet, showing the proposed manner of controlling and drawing off the water from any such pond, reservoir, or basin.

The cross-section maps required by this subsection are to be prepared on tracing linen or cross-section paper. If the area of the proposed pond, reservoir or basin is shown by cross-sections, they shall be at sufficient intervals to enable the contents of the pond, reservoir, or basin, which must be shown on the plan in cubic or acre feet, to be carefully checked.

If the pond, reservoir or basin is to be showing by contour lines they shall be clearly and distinctly defined and the datum used distinctly set forth.

The information regarding the property likely to be affected by the creation of such pond, reservoir or basin, and the manner in which affected, may be given by contour lines, or be elevations at a sufficient number of points to show the result of the bursting of any dam controlling the waters in such pond, reservoir or basin.

The size, style and material composing all gates, valves, flumes or other contrivance for controlling and drawing off the water from such pond, reservoir or basin must be given on plan, with suitable elevations and cross-sections, and any further detail necessary to enable the suitability and safety of the proposed contrivance to be decided upon.

These plans must be signed by the engineer who designs the proposed works.

13. The method of preparing the plans to be signed by a Dominion land surveyor required by this section, is clearly set forth in the memorandum of instructions regarding the preparation of returns of right of way surveys in connection with irrigation enterprises, copies of which can be had from the department or at the office of the superintendent of mines at Calgary, Alberta.

22. The same remarks as in the preceding paragraph apply in this case.

General Remarks

All maps, plans, profiles, etc, must be fair specimens of draughtsmanship, and all figures and references must be clear and distinct.

Each map or plan should have a concise and legible title and in all cases the scale or scales as the case may be must be clearly set forth.

In cases where maps or plans are referred to in any memorial or petition, they should be distinguished by a letter or number which should be clearly marked thereon.

When it is proposed to select a bridge for the purpose of carrying a flume across any stream or ravine, or for any other purpose in connection with irrigation enterprises, the plan and elevations of such bridge must be so prepared as to clearly set forth the size and style of the proposed structure, and the form of any truss used in the construction of such bridge shall be such, and will be so shown on such plan and elevation, that the stress in every member will admit of exact calculation.

The plan must be accompanied by a general specification giving sizes and kind of material to be used, the manner of placing the same, and the load and strains for which the proposed structure is designed. Both plan and specification must be signed by the engineer designing the structure.

No. 3

"The North-West Irrigation Act"

License to do necessary preliminary work, authorized by 57 and 58 Victoria,c.30, s.11

Calgary, Alberta, 189 .

Received from Mr. of (location and occupation) the sum of five dollars, being the fee prescribed by 57-58 Victoria, ch. 30 sec. 11.

This receipt entitles the said within days to do the necessary preliminary work, and with such assistants as are necessary, to enter into and upon the following lands to take levels, make surveys, and do other necessary works in connection with the location of any works authorized by said 57-58 Victoria, ch.30.

O.C. 29 April 1895

By Order in Council of the 29th of April, 1895, under the provisions of section 45 of the *North-west Irrigation Act*, 57-58 Victoria, chapter 30, the following regulations were established for the admeasurement and use of water, the disposal of reservoir sites and right of way for irrigation works, the establishment of gauge rods in streams and in rating flumes of irrigation canals and ditches, and the form of licenses and of certificate to be issued:

Regulations for the measurement and use of water, the disposal of reservoir sites and right of way for irrigation works, the establishment of gauge rods in streams and in rating flumes of irrigation canals and ditches, and the license and certificates to be issued.

Measurement of Water

1. The measurement of the discharge of any stream, made for the purpose of determining the quantity of water available for licenses authorizing the diversion of water therefrom, or to settle disputes between the holders of such licenses, shall be effected as follows:—

The area of the actual water cross-section, at time of measurement, shall be determined by careful measurement of the total width of stream, and by soundings under the line of cross-section at sufficiently frequent intervals to give a close approximation of the contour of bottom of the stream.

The velocity of the stream shall be determined by measurement with any approved make of current meter, which must have been previously rated at the government rating station at Calgary, these measurements being taken at such intervals along the line of cross-section as will enable the velocity to be determined to each subsection between soundings.

In streams of not more than three feet in depth surface and bottom velocities must be measured, or the meter may be moved slowly, during time of observation from bottom to top, and *vice versa*. In streams of more than three feet in depth, mid-depth readings of current meter may be taken, the resulting discharge being corrected by necessary factor for velocities thus determined.

a) The flow of water into any irrigation ditch or canal shall be determined by careful measurement of the cross-section of the rating flume, constructed as hereinafter provided, and of the velocity by current meter, of the water flowing therein, at extreme low water, high water, and flood discharge stages of water in the source of supply, these heights of water being fixed by the marking on the gauge rod placed in the said rating flume of such ditch or canal as hereinafter provided. The flow of water between low, high and flood stages of water, shall be determined by a table showing flow of water at these heights, and for each six inches marked on the gauge rod, which table, in the form of a certificate signed by the inspecting officer, shall be issued for each ditch or canal, and shall accompany the license hereinafter provided for.

b) The quantity of water supplied to consumers by any person or company having a license for use of water for irrigation, shall be measured by water meter, measuring flume, measuring weir, spill-box or any other device for the measurement of the water, but such water meter, measuring flume, measuring weir, spill-box or other device must be first approved and sanctioned by the Minister of the Interior, or by some officer appointed by him, who shall issue a certificate authorizing the person or company to use such device.

c) The volume of water in any lake, pond or reservoir, or other body of still water shall be measured by careful survey of the outline of such body of water to determine its superficial area, and measurement of the depth of water at sufficiently frequent intervals to give a correct contour of the bottom of such lake, pond or reservoir, so that the contents thereof may be accurately calculated. The flow of water into or out of any reservoir shall be measured by determination of the area of the cross-section of channel of in-flow or discharge and of the velocity of the water flowing therein by current meter.

d) The discharge of spring shall be determined by causing all the water flowing therefrom to discharge into a vessel or reservoir of known contents, and noting the time taken to fill such vessel or reservoir, or by measurement of cross-section of the channel carrying flow of such spring, as near as possible to its head, and determination of velocity of flow therein with current meter.

Duty of Water

2. The duty of water, or the ratio between a given quantity of water and the amount of land it will irrigate, shall be one hundred acres of each cubic foot of water per second, flowing constantly during the irrigation season, and all applications for water to irrigate any given area, and the division of the available water supply among applicants therefor, shall be made upon the basis of this duty of water.

Licenses

3. Whenever any company or person, applying for a license or authorization under the provisions of the Act, has complied with all the requirements thereof, and has completed the construction of the works authorized, an inspection of the works shall be made by an officer named by the minister, who shall determine the capacity of such works, and certify that they have been completed in accordance with the provisions of the Act.

a) Upon receipt of such certificate, and of a fee of ten dollars, to be paid by the company or person constructing such works, the Minister of the Interior shall issue to such company or person a license in the form given in the schedule hereto, which license shall be registered by the company or person to whom it is issued, in the registry office in and for the district within which the lands affected by the system covered by such license are situated, by producing the same or an exemplification thereof to the registrar with a true copy sworn to by any person who has compared the same with the original, and the copy shall be filed with the registrar.

Rating Flume and Gauge Rods

4. Every irrigation ditch or canal shall be provided by the owners thereof with a rating flume, which is to be constructed in the ditch or canal not less than 100 nor more than 800 feet between the headgate thereof, such flume to be built in accordance with plans approved by some officer appointed by the minister.

a) Every rating flume shall be provided with a gauge rod, which is to be placed on the side at the centre of such flume. The gauge rod shall be two inches in thickness and three inches wide, painted white, with heights above the floor of the rating flume clearly marked thereon in feet and tenths of a foot, with black lines and figures. The height of low water, high water, and flood stage of water, shall be shown on the gauge rod at elevations to correspond with the markings of these stages of water on the government gauge rod, placed in the stream from which water is taken for such ditch or canal.

Government Gauge Rods

5. The minister may authorize some officer to place a gauge rod or rods in

all streams or reservoirs used as a source of supply for irrigation ditches or canals. The gauge rod or rods are to be permanently placed at the same point for convenient reference, and clearly marked so that the rise or fall of water in such stream or reservoir can be readily noted therefrom. The height of low water, high water, and flood water shall be designated on the rod with special marks and lettering, so that these stages of water may be apparent by inspection.

Reservoir Sites

6. The lands forming sites suitable for ponds, basins and reservoirs which have been reserved from general sale and settlement, may be leased to any company or person applying therefor, who have satisfied the minister of their or his ability to construct the works necessary to utilize the proposed site for the storage of water, and the beneficial use of the same in irrigation.

a) The lease shall be for one year with privilege of renewal from year to year, provided the lessee continues to use the lands for the purpose mentioned, and complies with all the provisions of the *Irrigation Act*.

b) The rental to be paid for lands leased for reservoir purposes shall be one cent per acre, per annum, payable upon the first day of November in each and every year.

c) Should the lessee at any time cease to use the lands for the purposes mentioned, the lease shall be cancelled, and the lands become available for lease to any applicant therefor, who shall have satisfied the minister of his ability to utilize the lands for the beneficial storage of water.

Right of Way

7. The right of way for any irrigation ditch or canal or for the works connected therewith through any and all lands the title to which is vested in the Crown, as shown by the plans and books of reference filed in the Department of the Interior, and approved by the surveyor general, may be granted to the company or person constructing such irrigation ditch, canal or works in connection therewith, free of charge.

Schedule
Form of License
Department of the Interior

License No.

Source of supply

First issued

Know all men by these presents, that by virtue of the authority vested in me by the *North-west Irrigation Act*, I Minister of the Interior, of Canada, do hereby grant unto hereinafter called the licensee, executors and administrators full right, power and license, subject to the conditions and restrictions contained in the *North-west Irrigation Act*, to divert from the the following quantity of water, for use in the system constructed by and as shown by application of the licensee and by the plans of the same, dated the and filed in the Department of the Interior and in the registry office in and for and authorized by Order in Council dated 189 , that is to say:—

At flood level	cubic feet per second
At high water	cubic feet per second
At low water	cubic feet per second

and to take and keep possession of the said quantity of water for and during the period during which this license may be in force under the provisions of the *North-west Irrigation Act*.

But this license shall be subject to the following conditions, viz:

1. That the license shall only come into force and effect after it has been registered by the licensee in the registry office in and for the .

2. That the period of flood discharge, high water, and low water in the said shall be fixed and determined by the markings on the gauge rod placed in the said stream by the Department of the Interior.

3. That this license shall be subject to forfeiture as provided by the *North-west Irrigation Act*.

4. That this license can only be assigned or transferred by approval of the Minister of the Interior and by using the form printed on the back thereof, and that such transfer must be recorded in the Department of the Interior and in the registry office in and for before a new license will be issued in the name of the transferee.

Dated at Ottawa, this day of , one thousand eight hundred and ninety- .

Witness

Deputy Minister of the Interior.

License No.

Source of supply

The Minister of the Interior
to

License to divert water for from

Recorded in

Transfer

for and in consideration of the sum of dollars to in hand paid (the receipt whereof is hereby acknowledged) do hereby sell, transfer and make over to executors and administrators, all my right, title and interest of, in, and to the license within contained.

In witness whereof I have hereunto set my hand at this day of 189 .

Witness

Form of Summons

To

Greeting:

You are hereby commanded that all things set aside and ceasing every excuse, you be and appear in your proper person before me the undersigned, at on the day of 189 , by o'clock in the noon, and so on from day to day to be then and there examined upon oath touching your knowledge of . And you are to bring with you and produce all papers and writings in your custody, power or control, in any wise relating to the said matters; and take notice that if you neglect or refuse to appear at the time or place aforesaid, you will be liable to be taken into custody and to be imprisoned in the nearest common jail, as for contempt of court, for a period not exceeding fourteen days.

Given under my and hand seal, this day of 189 , at .

Certificate re Measuring Device

I hereby certify that I have examined the plans and models of the proposed to be constructed and used by for the measurement of water supplied by for purposes, and in accordance with the regulations in that behalf I hereby authorize the use of the said for the division and measurement of water.

Dated at .

Certificate for Rating Flume to Accompany License

I do hereby certify that I have carefully examined the rating flume of erected near the headgate of constructed by , that I find it properly placed and constructed with necessary gauge rod properly marked, and that careful measurement of the capacity of the said rating flume proves it capable of admitting the undermentioned quantities of water from into the above mentioned:

At low water	cubic feet per second
At high water	cubic feet per second
At flood level	cubic feet per second

These stages of water being determined by the gauge rod placed in the said rating flume and marked in accordance with the regulations in that behalf.

I further certify that the said rating flume will admit the undermentioned quantities of water at each six inches rise of level of the water therein as shown by the markings on the said gauge rod.

At 6 inches above low water			cubic feet per second	
At 12	do	do	do	do
At 1½ feet		do	do	do
At 2	do	do	do	do
At 2½	do	do	do	do
At 3	do	do	do	do
At 3½	do	do	do	do

At 4	do	do	do	do
At 4½	do	do	do	do
At 5	do	do	do	do
At 5½	do	do	do	do
At 6	do	do	do	do
At 6½	do	do	do	do
At 7	do	do	do	do
At 7½	do	do	do	do
At 8	do	do	do	do
At 8½	do	do	do	do
At 9	do	do	do	do
At 9½	do	do	do	do
At 10	do	do	do	do
At 6 inches above high water			do	do
At 12	do	do	do	do
At 1½ feet		do	do	do
At 2	do	do	do	do
At 2½	do	do	do	do
At 3	do	do	do	do
At 3½	do	do	do	do
At 4	do	do	do	do
At 4½	do	do	do	do
At 5	do	do	do	do

Dated , 189 .

O.C. 6 April 1896

By Order in Council of the 6th of April, 1896, in virtue of the provisions of the *North-west Irrigation Act*, 57-58 Victoria, chapter 30, it was ordered that the accompanying form of license and form of transfer should be used instead of the form of license and form of transfer, respectively, in the schedule to the Irrigation Regulations, which were established under and by the Order in Council of the 29th day of April, 1895; and that the proof of the execution thereof to be furnished for registration purposes should be in accordance with "Form W" in the schedule to the *Land Titles Act*, 1894.

License
Department of the Interior

License No.

Source of supply

First issued

Know all men by these presents, that by virtue of the authority vested in me by the *North-west Irrigation Act*, I Minister of the Interior of Canada, do hereby grant unto hereinafter called the licensee, executors, administrators and assigns, full right, power and license, subject to the conditions and restriction contained in the *North-west Irrigation Act*, to divert from the the following quantity of water, for use in the system constructed by and as shown by application of the licensee, and by the plans of the same, dated the and filed in the Department of the Interior at Ottawa, and in the Dominion Lands Office at and authorized by 189 , that is to say:—

At flood level	cubic feet per second
At high water	cubic feet per second
At low water	cubic feet per second

and to take and keep possession of the said quantity of water for and during the period during which this license may be in force under the provisions of the said *North-west Irrigation Act*.

But this license shall be subject to the following conditions, namely:

1. That this license shall only come into force and effect after it has been registered by the licensee in the Land Titles Office at in and for the Land Registration District.

2. That the period of flood discharge, high water and low water in the said shall be fixed and determined by the marking on the gauge rod placed in the said stream by the Department of the Interior.

3. That this license shall be subject to forfeiture under and as provided by the *North-west Irrigation Act*.

4. That this license may only be assigned or transferred by approval of the Minister of the Interior and by using a form of transfer authorized by His Excellency the Governor General in Council for that purpose; and such transfer shall be recorded in the Department of the Interior at Ottawa, and in the said Land Titles Office before a new license will be issued in the name of the transferee.

Dated at Ottawa this day of A.D. 189 , in triplicate.

Witness:

Deputy of the Minister of the Interior of Canada

Transfer of Irrigation License
Department of the Interior

Know all men by these presents that the licensee named in that certain license bearing date , 189 , number , from the Honourable the Minister of the Interior of Canada, whereby the said licensee , executors, administrators and assigns were granted full right, power and license subject to the conditions and restrictions contained in the *North-west Irrigation Act* and in the said license, to divert from the the quantity of water specified in and limited by the said license for use in the system, constructed by the , and as shown by the application and plans referred to in the said license, do hereby, for and in consideration of the sum of dollars, the receipt whereof is hereby acknowledged, transfer and make over to executors. administrators and assigns all right, title and interest of, in, under and to the said license, and to the said water, and all benefits under the said license.

Dated at this day of , A.D.189 .

Witness:

O.C. 7 July 1896

By Order in Council of the 7th of July, 1896, in virtue of the provisions of the *North-west Irrigation Act*, it was ordered that section 7 of the Order in Council of the 29th of April, 1895, making regulations under said Act shall be amended by adding the following paragraphs thereto:—

The right of way through Crown lands or private lands for irrigation works shall comprise a strip in addition to the width of the ditch of twenty feet in width on one side and ten feet in width on the other side, of any ditch or canal, such width to be measured in each case from the top of the inner slope of the bank of such ditch, except in cases where the nature of the country traversed shall require a greater width on one side of the ditch to enable a road to be constructed, in which cases a sufficient width will be allowed for proper slide slopes in constructing such road. The applicant for a right of way will be allowed to take the twenty feet strip on whichever side he prefers, and to change it from one side to the other when necessary to give a good road, and the manner of taking the different reserves is to be shown in the right of way survey.

In cases where lands are taken for reservoir purposes the area shall include in addition to the area actually covered by water in such reservoirs, a strip twenty feet in width around the margin of such reservoir, the width to be measured back from the highest point reached by the water in the reservoir at any point in the margin thereof.

O.C. 8 July 1896

By Order in Council of the 8th of July, 1896, it was ordered that all instructions which may be issued in future to Dominion land surveyors, under the authority of the Order in Council of 11th of October, 1894, shall include a paragraph which will make it clear to the surveyors that the certificate to be used, is to be in the form "Z" of the *Land Titles Act*, 1894.

O.C. 24 April 1897

By Order in Council of the 24th of April, 1897, it was ordered that in each and every case, in which a company or individual, who has received the necessary authorization to construct an irrigation system under the provisions of the *North-west Irrigation Act* requires to cross any public road allowance or highway for any purpose connected with the construction of any canal, ditch, reservoir or other work necessary to complete such irrigation system, such company or individual may make application to His Honour the Lieutenant-Governor of the North-west Territories for such permission on the form hereto attached; and may receive such permission in the form also hereto attached; and His Honour the Lieutenant-Governor of the North-west Territories was empowered to grant such permission without reference of each such particular case for the approval of the Governor General in Council.

His Honour the Lieutenant-Governor, Regina:

Sir,— beg to inform you that have made application, under the provisions of the *North-west Irrigation Act*, to the Minister of the Interior for permission to divert water from on the quarter of section township range west of the meridian for irrigation purposes, and to construct the canals, ditches and reservoirs necessary for the utilization of such water, and have received the necessary authorization for the construction of the works in question, and desire to point out that in completing such construction it will be necessary to cross the road allowance, or public highway at the points indicated on the general plan herewith therefore hereby apply for permission from Your Honour, under the provisions of the North-west Territories and *Dominion Lands Acts* and their respective amendments, to construct and maintain across the road allowance or public highway at the points shown on the accompanying plan, necessary bridge or bridges over such to be constructed and maintained by as provided by section 31 of the *North-west Irrigation Act*.

Regina, 189 .

This is to certify that having been authorized under the provisions of the *North-west Irrigation Act* to divert water from on the quarter of section township range west of the meridian, and to construct the necessary canals, ditches and reservoirs for the utilization of such water for irrigation purposes, hereby granted permission, under the provisions of the *North-west Territories* and *Dominions Lands Acts* and their respective amendments relating to road allowances and public highways, to construct the canals, ditches or reservoirs forming part of such authorized irrigation system, across the road allowances or public highways subject to the provisions of section 31 of the said *North-west Irrigation Act*, at the point or points shown by the plans filed by the said in the Department of the Interior.

Lieutenant-Governor

Note—This permission is to be filed in the Irrigation Office of the Department of the Interior at Calgary, Alberta.

O.C. 14 July 1897

By Order in Council of the 14th July, 1897, sub-clause a) of clause 3 of the Order in Council of April 29, 1895, was amended to read as follows:—

> Upon receipt of such certificate and of a fee of $10 to be paid by the person or company constructing such works, the Minister of the Interior shall issue to such company or person a license in the form given in the schedule hereto, which license shall be registered by the company or person to whom it issued in the Irrigation Office of the Department of the Interior at Calgary.

By the same Order new forms of license and transfer were substituted for those of the Order in Council of the 29th of April, 1895.

O.C. 17 July 1897

By Order in Council of the 17th of July, 1897, in virtue of section 45 of the *North-west Irrigation Act*, the following regulations were made regarding the use of any natural channel for the carriage of water therein from any reservoir or other source of water supply:—

Regulations regarding the use of any natural channel for the carriage of water therein from a reservoir or other source of water supply

1. Any individual or company who secures the right under the provisions of the *North-west Irrigation Act* to construct a reservoir for the storage of water or to divert water from any source, may deliver the water so stored or diverted into any natural channel, and after its flow therein, to any point where it is desired to again divert the water delivered for irrigation purposes, may take out from such channel the volume of water delivered therein from such reservoir or other source, less a deduction of such percentage of the volume delivered for each mile or pro rata for fractions of a mile, over which the said water is carried in the said natural channel: as may be determined by the official of the Department of the Interior charged with the administration of water rights under the *Irrigation Act*, after completing the

necessary investigations in each such natural channel to fix the loss on water carried therein resulting from seepage, evaporation or other natural causes.

2. The volume of water delivered into any natural channel from a reservoir or other source of water supply, shall be measured by a suitable rating flume or flumes of a design prepared by the official of the Department of the Interior charged with the administration of water rights, such flume or flumes to be constructed at a point selected by such official, by the individual or company owning the works for the delivery of such water.

b) A suitable gauge rod shall be placed in the natural channel to be used for the carriage of water at the point where such water is delivered therein, in such a manner as to clearly indicate the rise of water in such channel, consequent upon the added flow from such reservoir or other source of supply; and a gauge rod shall also be placed at the point where the water delivered into the channel in question is to be again diverted therefrom, so as to show at that point the rise resulting from the volume of water delivered therein, less the loss resulting from seepage, evaporation or other natural causes as mentioned in section 1 of these regulations.

3. When water is delivered into any natural channel for carriage therein, it cannot be taken out at any lower point on such channel by the individual or company delivering it therein until the gauge rod placed at such point of diversion indicates the same stage of water as that shown at the point where water is delivered into the channel, less the loss resulting from seepage, evaporation and other natural causes referred to in section 1 of these regulations.

4. The owners of ditches heading in any natural channel which is being utilized for the carriage of water as provided by these regulations, shall not divert therefrom any portion of the water delivered therein by any individual or company, and as shown by the gauge rods placed in such channel in manner provided by section 2 of these regulations.

Any damage to headgates, dams, weirs, or other works connected with ditches heading in the channel utilized for carriage of water as provided by these regulations, which shall result from the flow therein of the water delivered from any reservoir, shall be paid for by the owners of such reservoir, and such damage, if any, shall be assessed by the inspecting officer appointed in accordance with the provisions of the *North-west Irrigation Act*.

5. Before any individual or company utilizes any natural channel for the carriage of water, a notice shall be issued by such individual or company to the owners of all ditches heading in that portion of the channel to be so utilized, informing them of the date at which the volume of water from any reservoir or other source is to be delivered into such channel, and the ditch owners shall take the necessary steps to prevent the diversion of any portion of the added flow into their ditches.

O.C. 15 May 1899

By Order in Council of the 15th of May, 1899, the Orders in Council of the 11th of October, 1894, the 29th of April, 1895, the 6th of April, 1896, the 7th of July, 1896, the 8th of July, 1896, the 24th of April, 1897 the 14th July, 1897 and the 17th July, 1897, passed under authority of the provisions of the *North-west Irrigation Act*, prescribing certain rules, regulations and forms in connection with the adminstration of the said Act, were rescinded preparatory to the issue of new regulations in conformity to the *North-west Irrigation Act* of 1898.

YUKON

Placer Mining

O.C. 21 May 1897

By Order in Council of the 21st of May, 1897, in virtue of the provisions of the Dominion Lands Act, chapter 54 of the Revised Statutes of Canada, the following regulations were substituted for the governance of placer mining along the Yukon River, and its tributaries in the North-west Territories, in the room, place and stead of those regulations established by the Order in Council of the 9th November, 1889:—

Regulations governing placer mining along the Yukon River and its tributaries, in the North-west Territories

Interpretation

"Bar diggings" shall mean any part of a river over which the water extends when the water is in its flooded state, and which is not covered at low water.

Mines on benches shall be known as "bench diggings" and shall for the purpose of defining the size of such claims be excepted from dry diggings.

"Dry diggings" shall mean any mine over which a river never extends.

"Miner" shall mean a male or female over the age of eighteen but not under that age.

"Claim" shall mean the personal right of property in a placer mine or diggings during the time for which the grant of such mine or diggings is made.

"Legal post" shall mean a stake standing not less than four feet above the ground and squared on four sides for at least one foot from the top. Both sides so squared shall measure at least four inches across the face. It shall also mean any stump or tree cut off and squared or faced to the above height and size.

"Close season" shall mean the period of the year during which placer mining is generally suspended. The period to be fixed by the gold commissioner in whose district the claim is situated.

"Locality" shall mean the territory along a river (tributary of the Yukon River) and its affluents.

"Mineral" shall include all minerals whatsoever other than coal.

Nature and size of claims

1. "Bar diggings" a strip of land 100 feet wide at high water mark, and thence extending into the river to its lowest water level.

2. The sides of a claim for bar digging shall be two parallel lines run as nearly as possible at right angles to the stream, and shall be marked by four legal posts, one at each end of the claim at or about high water mark, also one at each end of the claim at or about the edge of the water. One of the posts at high water mark shall be legibly marked with the name of the miner and the date upon which the claim was staked.

3. Dry diggings shall be 100 feet square and shall have placed at each of its four corners a legal post upon one of which shall be legibly marked the name of the miner and the date upon which the claim was staked.

4. Creek and river claims shall be 500 feet long measured in the direction of

the general course of the stream, and shall extend in width from base to base of the hill or bench on each side, but when the hills or benches are less than 100 feet apart, the claim may be 100 feet in depth. The sides of a claim shall be two parallel lines run as nearly as possible at right angles to the stream. The sides shall be marked with legal posts at or about the edge of the water and at the rear boundaries of the claim. One of the legal posts at the stream shall be legibly marked with the name of the miner and the date upon which the claim was staked.

5. Bench claims shall be 100 feet square.

6. In defining the size of claims they shall be measured horizontally irrespective of inequalities on the surface of the ground.

7. If any person or persons shall discover a new mine and such discovery shall be established to the satisfaction of the gold commissioner a claim for bar diggings 750 feet in length may be granted.

A new stratum of auriferous earth or gravel situated in a locality where the claims are abandoned shall for this purposes be deemed a new mine, although the same locality shall have been previously worked at a different level.

8. The forms of application for a grant for placer mining and the grant of the same shall be those contained in forms "H" and "I" in the schedule hereto.

9. A claim shall be recorded with the gold commissioner in whose district it is situated within three days after the location thereof if it is located within ten miles of the commissioner's office. One extra day shall be allowed for making such record for every additional ten miles or fraction thereof.

10. In the event of the absence of the gold commissioner from his office, entry for a claim may be granted by any person whom he may appoint to perform his duties in his absence.

11. Entry shall not be granted for a claim which has not been staked by the applicant in person in the manner specified in these regulations. An affidavit that the claim was staked out by the applicant shall be embodied in form "H" of the schedule hereto.

12. An entry fee of $15 shall be charged the first year, and an annual fee of $100 for each of the following years. This provision shall apply to locations for which entries have already been granted.

13. After the recording of a claim the removal of any post by the holder thereof or by any person acting in his behalf for the purpose of changing the boundaries of his claim shall act as a forfeiture of the claim.

14. The entry of every holder of a grant for placer mining must be renewed and his receipt relinquished and replaced every year, the entry fee being paid each time.

15. No miner shall receive a grant of more than one mining claim in the same locality, but the same miner may hold any number of claims by purchase, and any number of miners may unite to work their claims in common upon such terms as they may arrange, provided such agreement be registered with the gold commissioner and a fee of five dollars paid for each registration.

16. Any miner or miners may sell, mortgage, or dispose of his or their claims, provided such disposal be registered with, and a fee of two dollars paid to

the gold commissioner, who shall thereupon give the assignee a certificate in form "J" in the schedule hereto.

17. Every miner shall, during the continuance of his grant, have the exclusive right of entry upon his own claim, for the miner-like working thereof, and the construction of a residence thereon, and shall be entitled exclusively to all the proceeds realized therefrom; but he shall have no surface rights therein; and the gold commissioner may grant to the holders of adjacent claims such right of entry thereon as may be absolutely necessary for the working of their claims, upon such terms as may to him seem reasonable. He may also grant permits to miners to cut timber thereon for their own use, upon payment of the dues prescribed by the regulations in that behalf.

18. Every miner shall be entitled to the use of so much of the water naturally flowing through or past his claim, and not already lawfully appropriated, as shall, in the opinion of the gold commissioner be necessary for the due working thereof; and shall be entitled to drain his own claim free of charge.

19. A claim shall be deemed to be abandoned and open to occupation and entry by any person when the same shall have remained unworked on working days by the grantee thereof or by some person on his behalf for the space of seventy-two hours, unless sickness or other reasonable cause be shown to the satisfaction of the gold commissioner or unless the grantee is absent on leave given by the commissioner, and the gold commissioner upon obtaining evidence satisfactory to himself, that this provision is not being complied with may cancel the entry given for a claim.

20. If the land upon which a claim has been located is not the property of the Crown it will be necessary for the person who applied for entry to furnish proof that he has acquired from the owner of the land the surface rights before entry can be granted.

21. If the occupier of the lands has not received a patent therefor, the purchase money of the surface rights must be paid to the Crown, and a patent of the surface rights will issue to the party who acquired the mining rights. The money so collected will either be refunded to the occupier of the land, when he is entitled to a patent therefor, or will be credited to him on account of payment for land.

22. When the party obtaining the mining rights to lands cannot make an arrangement with the owner or his agent or the occupant thereof for the acquisition of the surface rights, it shall be lawful for him to give notice to the owner or his agent or the occupier to appoint an arbitrator to act with another arbitrator named by him, in order to award the amount of compensation to which the owner or occupant shall be entitled. The notice mentioned in this section shall be according to a form to be obtained upon application from the gold commissioner for the district in which the lands in question lie, and shall, when practicable, be personally served on such owner, or his agent if known, or occupant; and after reasonable efforts have been made to effect personal service, without success, then such notice shall be served by leaving it at, or sending by registered letter to, the last place of abode of the owner, agent or occupant. Such notice shall be served upon the owner, or agent within a period to be fixed by the gold commissioner before the expiration of the time limited in such notice. If the proprietor refuses or declines to appoint an arbitrator, or when, for any other reason, no arbitrator is appointed by the proprietor in the time limited therefor in the notice provided for by this section, the gold commissioner for the district in

which the lands in question lie, shall, on being satisfied by affidavit that such notice has come to the knowledge of such owner, agent or occupant, or that such owner, agent or occupant wilfully evades the service of such notice, or cannot be found, and that reasonable efforts have been made to effect such service, and that the notice was left at the last place of abode of such owner, agent or occupant, appoint an arbitrator on his behalf.

23. a) All the arbitrators appointed under the authority of these regulations shall be sworn before a justice of the peace to the impartial discharge of the duties assigned to them, and they shall forthwith proceed to estimate the reasonable damages which the owner or occupants of such lands, according to their several interests therein, shall sustain by reason of such prospecting and mining operations.

b) In estimating such damages, the arbitrators shall determine the value of the land irrespectively of any enhancement thereof from the existence of minerals therein.

c) In case such arbitrators cannot agree, they may select a third arbitrator, and when the two arbitrators cannot agree upon a third arbitrator the gold commissioner for the district in which the lands in question lie shall select such third arbitrator.

d) The award of any two such arbitrators made in writing shall be final and shall be filed with the gold commissioner for the district in which the lands lie.

If any cases arise for which no provision is made in these regulations, the provisions of the regulations governing the disposal of mineral lands other than coal lands approved by His Excellency the Governor in Council on the 9th of November, 1889, shall apply.

O.C. 18 January 1898

By Order in Council of the 18th of January, 1898, the regulations governing placer mining along the Yukon River and its tributaries, in the North-west Territories, made and established by an Order of the Governor in Council dated 21st May, 1897, and by subsequent Orders of the Governor in Council, were cancelled, and the following regulations governing placer mining in the provisional district of Yukon, North-west Territories, were substituted in lieu thereof:—

Regulations Governing Placer Mining in the Provisional District of Yukon, North-west Territories

Interpretation

"Free miner" shall mean a male or female over the age of eighteen but not under that age, or joint stock company, named in, and lawfully possessed of, a valid existing free miner's certificate, and no other.

"Legal post" shall mean a stake standing not less than four feet above the ground and flatted on two sides for at least one foot from the top. Both sides so flatted shall measure at least four inches across the face. It shall also mean any stump or tree cut off and flatted or faced to the above height and size.

"Close season" shall mean the period of the year during which the placer mining is generally suspended. The period to be fixed by the mining recorder in whose district the claim is situated.

"Mineral" shall include all minerals whatsoever other than coal.

"Joint stock company" shall mean any company incorporated for mining purposes under a Canadian charter or licensed by the Government of Canada.

"Mining recorder" shall mean the official appointed by the gold commissioner to record applications and grant entries for claims in the mining divisions into which the commissioner may divide the Yukon District.

Free Miners and Their Privileges

1. Every person over, but not under eighteen years of age, and every joint stock company, shall be entitled to all the rights and privileges of a free miner, under these regulations and under the regulations governing quartz mining, and shall be considered a free miner upon taking out a free miner's certificate. A free miner's certificate issued to a joint stock company shall be issued in its corporate name. A free miner's certificate shall not be transferable.

2. A free miner's certificate may be granted for one year to run from the date thereof or from the expiration of the applicant's then existing certificate, upon the payment therefor of the sum of $10, unless the certificate is to be issued in favour of a joint stock company, in which case the fee shall be fifty dollars for a company having a nominal capital of $100,000, or less, and for a company having a nominal capital of $100,000, the fee shall be one hundred dollars. Only one person or joint stock company shall be named in a certificate.

3. A free miner's certificate shall be on the following form:—

Dominion of Canada
Free Miner's Certificate
(Non Transferable)

Date

No.

Valid for one year only

This is to certify that of has paid me this day the sum of and is entitled to all the rights and privileges of a free miner, under any mining regulations of the Government of Canada, for one year from the day of 18 .

This certificate shall also grant to the holder thereof the privilege of fishing and shooting, subject to the provisions of any Act which has been passed, or which may hereafter be passed for the protection of game and fish; also the privilege of cutting timber for actual necessities, for building houses, boats, and for general mining operations; such timber, however, to be for the exclusive use of the miner himself, but such permission shall not extend to timber which may have been heretofore or which may hereafter be granted to other persons or corporations.

4. Free miner's certificates may be obtained by applicants in person at the Department of the Interior, Ottawa, or from the agents of Dominion Lands at Winnipeg, Manitoba; Calgary, Edmonton, Prince Albert, in the Northwest Territories; Kamloops and New Westminster, in the province of British Columbia; at Dawson City, in the Yukon District; also from agents of the

Government at Vancouver and Victoria, B.C., and at other places which may from time to time be named by the Minister of the Interior.

5. If any person or joint stock company shall apply for a free miner's certificate at the agent's office during his absence and shall leave the fee required by these regulations, with the officer or other person in charge of said office, he or it shall be entitled to have such certificate from the date of such application; and any free miner shall at any time be entitled to obtain free miners' certificate commencing to run from the expiration of his then existing free miner's certificate, provided that when he applies for such certificate he shall produce to the agent, or in case of his absence shall leave with the officer or the person in charge of the agent's office, such existing certificate.

6. If any free miner's certificate be accidentally destroyed or lost, the owner thereof may, on payment of a fee of two dollars, have a true copy of it, signed by the agent, or other person by whom or out of whose office the original was issued. Every such copy shall be marked "Substituted Certificate"; and unless some material irregularity be shown in respect thereof, every original or substituted free miner's certificate shall be evidence of all matters therein contained.

7. No person or joint stock company will be recognized as having any right or interest in or to any placer claim, quartz claim, mining lease, bed-rock flume grant, or any mineral in any ground comprised therein, or in or to any water right, mining ditch, drain, tunnel, or flume, unless he or it and every person in his or its employment shall have a free miner's certificate unexpired. And on the expiration of a free miner's certificate the owner thereof shall absolutely forfeit all his rights and interest in or to any placer claim, mining lease, bed rock flume grant, and any minerals in any ground comprised therein, and in or to any and every water right, mining ditch, drain, tunnel or flume, which may be held or claimed by such owner of such expired free miner's certificate, unless such owner shall, on or before the day following the expiration of such certificate, obtain a new free miner's certificate. Provided, nevertheless, that should any co-owner fail to keep up his free miner's certificate, such failure shall not cause a forfeiture or act as an abandonment of the claim, but the interest of the co-owner who shall fail to keep up his free miner's certificate shall, *ipso facto*, be and become vested in his co-owners, pro rata according to their former interests; provided, nevertheless, that a shareholder in a joint stock company need not be a free miner, and, though not a free miner, shall be entitled to buy, sell, hold, or dispose of any shares therein.

8. Every free miner shall, during the continuance of this certificate, but not longer, have the right to enter, locate, prospect, and mine for gold and other minerals upon any lands in the Yukon District, whether vested in the Crown or otherwise, except upon Government reservations for town sites, land which is occupied by any building, and any land falling within the curtilage of any dwelling house, and any land lawfully occupied for placer mining purposes, and also Indian reservations.

9. Previous to any entry being made upon lands lawfully occupied, such free miner shall give adequate security, to the satisfaction of the mining recorder, for any loss or damage which may be caused by such entry; and after such entry he shall make full compensation to the occupant or owner of such lands for any loss or damage which may be caused by reason of such entry;

such compensation, in case of dispute, to be determined by a court having jurisdiction in mining disputes, with or without a jury.

Nature and Size of Claims

10. A creek or gulch claim shall be 250 feet long measured in the general direction of the creek or gulch. The boundaries of the claim which run in the general direction of the creek or gulch shall be lines along bed or rim rock three feet higher than the rim or edge of the creek, or the lowest general level of the gulch within the claim, so drawn or marked as to beat every point three feet above the rim or edge of the creek or the lowest general level of the gulch, opposite to it at right angles to the general direction of the claim for its length, but such boundaries shall not in any case exceed 1,000 feet on each side of the centre of the stream or gulch. (See diagram No. 1.)

[Diagram 1 appears at this point in the original]

11. If the boundaries be less than one hundred feet apart horizontally, they shall be lines traced along bed or rim rock one hundred feet apart horizontally, following as nearly as practicable the direction of the valley for the length of the claim. (See diagram No. 2.)

[Diagram 2 appears at this point in the original]

12. A river claim shall be situated only on one side of the river and shall not exceed 250 feet in length, measured in the general direction of the river. The other boundary of the claim which runs in the general direction of the river shall be lines along bed or rim rock three feet higher than the rim or edge of the river within the claim so drawn or marked as to be at every point three feet above the rim or edge of the river opposite to it at right angles to the general direction of the claim for its length, but such boundaries shall not in any case be less than 250 feet, or exceed a distance of 1,000 feet from low water mark of the river (See diagram No. 3.)

[Diagram 3 appears at this point in the original]

13. A "hill claim" shall not exceed 250 feet in length, drawn parallel to the main direction of the stream or ravine on which it fronts. Parallel lines drawn from each end of the base line at right angles thereto, and running to the summit of the hill (provided the distance does not exceed 1,000 feet), shall constitute the end boundaries of the claim.

14. All other placer claims shall be 250 feet square.

15. Every placer claim shall be as nearly as possible rectangular in form, and marked by two legal posts firmly fixed in the ground in the manner shown in diagram No. 4. The line between the two posts shall be well cut out so that one post may, if the nature of the surface will permit, be seen from the other. The flatted side of each post shall face the claim, and on each post shall be written on the side facing the claim, a legible notice stating the name or number of the claim, or both if possible, its length in feet, the date when staked, and the full Christian and surname of the locator.

[Diagram 4 appears at this point in the original]

16. Every alternate ten claims shall be reserved for the Government of Canada. That is to say when a claim is located, the discoverer's claims and nine additional claims adjoining each other and numbered consecutively will be open for registration. Then the next ten claims of 250 feet each will be reserved for the Government, and so on. The alternate group of claims

reserved for the Crown shall be disposed of in such manner as may be decided by the Minister of the Interior.

17. The penalty for trespassing upon a claim reserved for the Crown, shall be immediate cancellation by the mining recorder of any entry or entries which the person trespassing may have obtained, whether by original entry or purchase for a mining claim, and the refusal by the mining recorder of the acceptance of any application which the person trespassing may at any time make for a claim. In addition to such penalty, the Mounted Police, upon a requisition from the mining recorder to that effect, shall take the necessary steps to eject the trespasser.

18. In defining the size of claims they shall be measured horizontally irrespective of inequalities on the surface of the ground.

19. If any free miner or party of free miners discover a new mine, and such discovery shall be established to the satisfaction of the mining recorder, creek, river, or hill, claims of the following size shall be allowed, namely:—

To one discoverer, one claim, 500 feet in length.

To a party of two discoverers, two claims, amount together to 1,000 feet in length.

To each member of a party beyond two in number, a claim of the ordinary size only.

20. A new stratum of auriferous earth or gravel situated in a locality where the claims have been abandoned shall for this purpose be deemed a new mine, although the same locality shall have been previously worked at a different level.

21. The forms of application for a grant for placer mining, and the grant of the same, shall be those contained in forms "H" and "I" in the schedule hereto.

22. A claim shall be recorded with the mining recorder in whose district it is situated, within ten days after the location thereof, if it is located within ten miles of the mining recorder's office. One extra day shall be allowed for every additional ten miles or fraction thereof.

23. In the event of the claim being more than one hundred miles from a recorder's office, and situated where other claims are being located, the free miners, not less than five in number, are authorized to meet and appoint one of their number a "free miners' recorder," who shall act in that capacity until a mining recorder is appointed by the gold commissioner.

24. The "free miners' recorder" shall at the earliest possible date after his appointment, notify the nearest government mining recorder thereof, and upon the arrival of the Government mining recorder, he shall deliver to him his records and the fees received for recording the claims. The Government mining recorder shall then grant to each free miner whose names appear in the records, an entry for his claim on form "I" of these regulations, provided an application has been made by him in accordance with form "H" thereof. The entry to date from the time the "free miners' recorder" recorded the application.

25. If the "free miners' recorder" fails within three months to notify the nearest Government mining recorder of this appointment, the claims which he may have recorded will be cancelled.

26. During the absence of the mining recorder from his office, the entry for

a claim may be granted by any person whom he may appoint to perform his duties in his absence.

27. Entry shall not be granted for a claim which has not been staked by the applicant in person in the manner specified in these regulations. An affidavit that the claim was staked out by the applicant shall be embodied in form "H" in the schedule thereto.

28. An entry fee of fifteen dollars shall be charged the first year, and an annual fee of fifteen dollars for each of the following years. This provision shall apply to claims for which entries have already been granted.

29. A statement of the entries granted and fees collected shall be rendered by the mining recorder to the gold commissioner at least every three months, which shall be accompanied by the amount collected.

30. A royalty of ten percent on the gold mined shall be levied and collected on the gross output of each claim. The royalty may be paid at banking offices to be established under the auspices of the Government of Canada, or the gold commissioner, or to any mining recorder authorized by him. The sum of $2,500.00 shall be deducted from the gross annual output of a claim when estimating the amount upon which royalty is to be calculated, but this exemption shall not be allowed unless the royalty is paid at a banking office or to the gold commissioner or mining recorder.

When the royalty is paid monthly or at longer periods, the deduction shall be made ratable on the basis of $2,500.00 per annum for the claim. If not paid to the bank, gold commissioner or mining recorder, it shall be collected by the customs officials or police officers when the miner passes the posts established at the boundary of a district. Such royalty to form part of the consolidated revenue, and to be accounted for by the officers who collect the same in due course. The time and manner in which such royalty shall be collected shall be provided for by regulations to be made by the gold commissioner.

31. Default in payment of such royalty, if continued for ten days after notice has been posted on the claim in respect of which it is demanded, or in the vicinity of such claim, by the gold commissioner or his agent, shall be followed by cancellation of the claim. Any attempt to defraud the Crown by withholding any part of the revenue thus provided for, by making false statements of the amount taken out, shall be punished by cancellation of the claim in respect of which fraud or false statements have been committed or made. In respect to the facts as to such fraud or false statements or non-payment of royalty, the decision of the gold commissioner shall be final.

32. After the recording of a claim the removal of any post by the holder thereof or by any person acting in his behalf for the purpose of changing the boundaries of this claim, shall act as a forfeiture of the claim.

33. The entry of every holder of a grant for placer mining must be renewed and his receipt relinquished and replaced every year, the entry fee being paid each time.

34. The holder of a creek, gulch or river claim may, within sixty days after staking out the claim, obtain and entry for a hill claim adjoining it, by paying to the mining recorder the sum of one hundred dollars. This permission shall also be given to the holder of a creek, gulch or river claim obtained under former regulations, provided that the hill claim is available at the time an application is made therefor.

35. No miner shall receive a grant of more than one mining claim in a mining district, the boundaries of which shall be defined by the mining recorder, but the same miner may also hold a hill claim, acquired by him under these regulations in connection with a creek, gulch or river claim, and any number of claims by purchase; and any number of miners may unite to work their claims in common, upon such terms as they may arrange, provided such agreement is registered with the mining recorder and a fee of five dollars paid for each registration.

36. Any free miner or miners may sell, mortgage, or dispose of his or their claims, provided such disposal be registered with, and a fee of two dollars paid to the mining recorder, who shall thereupon give the assignee a certificate in the form "J" in the schedule hereto.

37. Every free miner shall during the continuance of his grant have the exclusive right of entry upon his own claim for the miner-like working thereof, and the construction of a residence thereon, and shall be entitled exclusively to all the proceeds realized therefrom, upon which, however, the royalty prescribed by these regulations shall be payable; provided that the mining recorder may grant to the holders of other claims such right of entry thereon as may be absolutely necessary for the working of their claims, upon such terms as may to him seem reasonable. He may also grant permits to miners to cut timber thereon for their own use.

38. Every free miner shall be entitled to the use of so much of the water naturally flowing through or past his claim, and not already lawfully appropriated, as shall, in the opinion of the mining recorder be necessary for the due working thereof, and shall be entitled to drain his own claims free of charge.

39. A claim shall be deemed to be abandoned and open to occupation and entry by any person when the same shall have remained unworked on working days, excepting during the close season, by the grantee thereof or by some person on his behalf of the space of seventy two hours [72 hours means three consecutive days of 24 hours each], unless sickness or other reasonable cause be shown to the satisfaction of the mining recorder, or unless the grantee is absent on leave given by the mining recorder, and the mining recorder, upon obtaining evidence satisfactory to himself, that this provision is not being complied with, may cancel the entry given for a claim.

40. If any cases arise for which no provision is made in these regulations, the provisions of the regulations governing the disposal of mineral lands other than coal lands, approved by His Excellency the Governor in Council on the 9th of November, 1889, or such other regulations as may be substituted therefor, shall apply.

O.C. 30 March 1899

By Order in Council of the 30th of March, 1899, clause 30 of the regulations governing placer mining in the Yukon Territory, established by the Order in Council of January 18, 1898, was amended and the amount to be deducted from the gross annual output of each mining claim in the Yukon Territory, when estimating the amount upon which royalty is to be paid, was changed from $2,500 to $5,000.

It was also ordered that this exemption shall be allowed on royalty collected on and after the date upon which a copy of this Order in Council shall have been received by the gold commissioner at Dawson.

O.C. 13 May 1899

By Order in Council of the 13th of May, 1899, the Order in Council of August 23, 1898, repealing section 39 of the regulations governing placer mining in the Yukon Territory was cancelled, the said order not having become law because of not having been published in the *Canada Gazette*.

Certain extensions of time granted by the gold commissioner under misapprehension concerning the coming into force of said order were approved.

O.C. 13 June 1899

By Order in Council of the 13th of June, 1899, the regulations governing the disposal of quartz mining claims in Manitoba, the North-west Territories and the Yukon Territory, and also for the granting of entries for placer claims in the Yukon Territory, were amended by leaving out the word "in person" wherever they may occur in the said regulations in connection with issue of a free miner's certificate.

O.C. 7 October 1899

By Order in Council of the 7th of October, 1899, section 39 of the regulations governing placer mining in the Yukon District was repealed, and the following substituted therefor:—

> Any free miner having duly located and recorded a claim shall be entitled to hold it for a period of one year from the recording of the same, and thence from year to year by re-recording the same, provided, however, that during each year and each succeeding year such free miner shall do, or cause to be done, work on the claim itself to the value of two hundred dollars and shall satisfy the Mining Recorder that such work has been done, by an affidavit of the free miner corroborated by two reliable and disinterested witnesses setting out a detailed statement of the work done, and shall obtain from the Mining Recorder a certificate of such work having been done, for which a fee of $2 will be charged;
>
> Provided that all work done outside of a mining claim with the intent to work the same shall, if such work has direct relation and is in direct proximity to the claim, be deemed, if to the satisfaction of a responsible Government officer, to be work done on the claim for the purposes of this section;
>
> Provided further, that any free miner or company of free miners holding adjoining claims not exceeding eight in number may, notwithstanding anything in the regulations to the contrary, work the same in partnership under the provisions of the regulations upon filing a notice of their intention with the Mining Recorder and upon obtaining a certificate from him for which a fee of two dollars will be charged. This certificate will entitle the holders thereof to perform on any one or more of such claims all the work required to entitle him or them to a certificate of work for each claim so held by him or them. If such work shall not be done, or if such certificate shall not be so obtained and recorded in each and every year, the claim shall be deemed to be abandoned.
>
> The holder of a claim may at his option, in lieu of the work required to be done thereon each year, pay to the Mining Recorder in whose office the claim is recorded the sum of two hundred dollars for each of the first three years, but for the fourth and succeeding years the sum of four hundred dollars must be paid in lieu of work done on the location or in connection therewith as provided by the regulations. A certificate from the Mining

Recorder that such payment has been made shall relieve the person making it from the necessity of doing any work during the year.

If at the end of the year the annual amount of work has not been performed, nor the commutation fee paid, as above stated, the sum of $250 shall be charged against the claim, and the said amount shall constitute a lien on such claim, and no transfer of title to such claim shall be recorded until the said amount of $250 shall have been paid to the Mining Recorder.

If the lien is not discharged by payment at the expiration of three months from the end of the year, the claim shall revert to the Crown, and shall not be open for re-location, and may be disposed of as the Minister of the Interior may direct.

No claim forfeited from whatever cause shall be re-located, but every such claim shall revert to the Crown to be disposed of as the Minister of the Interior shall direct.

Any amounts received in lieu of assessment work shall form part of the Consolidated Revenue.

O.C. 30 January 1900

By Order in Council of the 30th of January, 1900, the regulation governing placer mining in the Yukon Territory established by the Order in Council of the 18th January, 1898, and amendments thereof, were amended as follows:—

1.That the following be substituted for section 33 of the regulations:—

Any free miner having duly located a claim may obtain an entry therefor for one or five years by paying to the Mining Recorder in advance a fee of $15.00 for one year or $75.00 for five years.

2. That section 39 of the regulations be amended by leaving out the words "Any free miner having duly located and recorded a claim shall be entitled to hold it for a period of one year from the recording of the same," and substituting therefor the following provision: "Any free miner having duly located and recorded a claim shall be entitled to hold it for the period for which he received an entry."

O.C. 20 February 1900

By Order in Council of the 20th of February, 1900, the regulations governing placer mining in the Yukon Territory, established by an Order of the Governor in Council dated 18th January, 1898, and amended by subsequent Orders in Council were amended as follows:—

1. That clause 2 which provides that a free miner's certificate may be granted for one year shall be and is hereby amended so that a certificate may be issued for one or more years not exceeding five, upon payment in advance of the fees prescribed by the regulations for each year covered by the certificate.

2. That clause 19, which provides that the discoverer of a new mine shall be allowed one claim of 500 feet in length; that a party of two discoverers shall be allowed two claims amounting together to 1000 feet in length, and that each member beyond two in number, a claim of the ordinary size, shall be and is hereby amended by giving to one discoverer a claim of 100 feet in length, and to a party of two discoverers two claims amounting together to 1500 feet in length, and that no royalty shall be imposed on the output of such claims.

3. That the definition of the rear boundaries of claims as specified in clauses 10, 11, 12, and 13 shall be and is hereby amended by providing that the rear boundaries of a creek or gulch claim which run in the general direction of the creek or gulch be defined by measuring 1000 feet on each side of the centre of the stream or gulch; that the boundary of a river claim which runs in the general direction of the river be defined by measuring 1000 feet from low water mark of the river; and that the rear boundary of a hill claim shall be defined by measuring 1000 feet from its front boundary.

4. That all claims for which entries have been granted in the past, may be defined in the manner specified in the preceding paragraph by order of the Gold Commissioner on the application of the registered owner thereof, where such proceeding will not interfere with any mining claim or property owned or held by any other person.

O.C. 20 July 1900

By Order in Council of the 20th of July, 1900, the following provision was inserted in the Quartz and in the Placer Mining Regulations now in force:—

> Notwithstanding anything to the contrary in these regulations, a free miner may renew his certificate within ninety (90) days from the date of its expiry, and such renewal shall be in force for one year from the date the certificate expired, and the holder of such renewal shall be entitled to all the rights of a free miner holding a certificate unexpired. The fee for the renewal of a free miner's certificate issued after the date the certificate expired shall be $15.

O.C. 26 July 1900

By Order in Council of the 26th of July, 1900, clause 16 of the regulations governing placer mining in the Yukon Territory, established by an Order in Council dated the 18th January, 1898, which provides that every alternate ten claims shall be reserved for the government, was rescinded.

O.C. 13 March 1901

By Order in Council of the 13th March, 1901, in virtue of the provisions of clause 47 of the *Dominion Lands Act*, as enacted by section 5 of chapter 15 of the Act 55-56 Victoria, and of section 8 of the *Yukon Territory Act*, as that section was enacted by section 2 of chapter 11 of 62-63 Victoria, the following regulations governing placer mining in the Yukon Territory were substituted for the regulation governing placer mining in the Yukon Territory established by the Governor General in Council on the 18th January, 1898, as amended by subsequent Order in Council:

Regulations Governing Placer Mining in the Yukon Territory

Interpretation

"Free miner" shall mean a male or female over the age of eighteen, but not under that age, or joint stock company, name in, and lawfully possessed of, a valid existing free miner's certificate, and no other.

"Legal post" shall mean a stake standing not less than four feet above the ground and flatted on two sides for at least one foot from the top. Both sides so flatted shall measure at least four inches across the face. It shall also mean any stump or tree cut off and flatted or faced to the above height and size.

"Joint stock company" shall mean any company incorporated for mining purposes under a Canadian charter or licensed by the Government of Canada.

"Mining recorder" shall mean the official appointed by the gold commissioner to record applications and grant entries for claims in the mining divisions into which the commissioner may divide the Yukon Territory.

Free Miners and Their Privileges

1. Every person over, but not under eighteen years of age, and every joint stock company, shall be entitled to all the rights and privileges of a free miner, under these regulations and under the regulations governing quartz mining, and shall be considered a free miner upon taking out a free miner's certificate. A free miner's certificate issued to a joint stock company shall be issued in its corporate name. A free miner's certificate shall not be transferable.

2. A free miner's certificate may be granted for one or more years, not exceeding five, to run from the date thereof or from the expiration of the applicant's then existing certificate, upon the payment in advance of the fees prescribed by the regulations for each year covered by the certificate. For a certificate issued in favour of an individual the fee shall be $10, and for a certificate issued in favour of a joint stock company the fee shall be $50 for a company having a nominal capital of $100,000 or less, and for a company having a nominal capital exceeding $100,000, the fee shall be $100. Only one person or joint stock company shall be named in a certificate.

Notwithstanding anything to the contrary in these regulations, a free miner may renew his certificate, within ninety (90) days from the date of its expiry and such renewal shall be in force for one year from the date the certificate expired, and the holder of such renewal shall be entitled to all the rights of a free miner holding a certificate unexpired. For the renewal of a free miner's certificate issued after the date the certificate expired, an additional fee of $5 shall be charged.

3. A free miner's certificate shall be on the following form:—

Dominion of Canada
Free Miner's Certificate
(Not Transferable)

Date

No.

Valid for one year only

This is to certify that of has paid me this day the sum of and is entitled to all the rights and privileges of a free miner, under any mining regulations of the Government of Canada, for one year from the day of , 19

This certificate shall also grant to the holder thereof the privilege of fishing and shooting, subject to the provisions of any Act which has been passed, or which may hereafter be passed for the protection of game and fish; also the privilege of cutting timber for actual necessities, for building houses, boats, and for general mining operations; such timber, however, to be for the exclusive use of the miner himself, but such permission shall not extend to timber which may have been heretofore or which may hereafter be granted to the person or corporations.

4. Free miner's certificates may be obtained by applicants at the Department of the Interior, Ottawa, or from the agents of Dominion lands at Winnipeg, Manitoba; Calgary, Edmonton, Prince Albert, in the North-west Territories; Kamloops and New Westminster, in the province of British Columbia; at Dawson City, in the Yukon Territory; also from the agents of the Government at Vancouver and Victoria, B.C., and at other places which may from time to time be named by the Minister of the Interior.

5. If any person or joint stock company shall apply for a free miner's certificate at the agent's office during this absence, and shall leave the fee required by these regulations with the office or other person in charge of said office, he or it shall be entitled to have such certificate from the date of such application; and any free miner shall at any time be entitled to obtain a free miner's certificate, commencing to run from the expiration of his then existing free miner's certificate provided that when he applies for such certificate he shall produce to the agent, or in case of his absence shall leave with the officer or other person in charge of the agent's office, such existing certificate.

6. If any free miner's certificate be accidentally destroyed or lost, the owner thereof may, on payment of a fee of two dollars, have a true copy of it, signed by the agent, or other person by whom or out of whose office the original was issued. Every such copy shall be marked "Substituted Certificate"; and unless some material irregularity be shown in respect thereof, every original or substituted free miner's certificate shall be evidence of all matters therein contained.

7. No person or joint stock company will be recognized as having any right or interest in or to any placer claim, quartz claim, mining lease, bed-rock flume grant, or any minerals in any ground comprised therein, or in or to any water right, mining ditch, drain, tunnel, or flume, unless he or it and every person in his or its employment, except house servants, shall have a free miner's certificate unexpired. And after ninety days from the expiration of a free miner's certificate the owner thereof shall absolutely forfeit all his rights and interest in or to any placer claim, mining lease, bed-rock flume grant, and any minerals in any ground comprised therein, and in or to any and every water right, mining ditch, drain, tunnel, or flume, which may be held or claimed by such owner of such expired free miner's certificate, unless such owner shall, on or before ninety days following the expiration of such certificate, obtain a new free miner's certificate. Provided, nevertheless, that should any co-owner fail to keep up his free miner's certificate, such failure shall not cause a forfeiture or act as an abandonment of the claim, but the interest of the co-owner who shall fail to keep up his free miner's certificate shall, *ipso facto*, be and become vested in his co-owners, *pro rata* according to their former interests; provided, nevertheless, that a shareholder in a joint stock company need not be a free miner, and though not a free miner, shall be entitled to buy, sell, hold, or dispose of any shares therein. Provided, always, that if any person or company shall acquire, by purchase or otherwise, any mine or mineral claim, or interest therein, and it shall appear that some person or company through whom he or it claims title has neglected to take out or keep up a free miner's certificate, according to the provisions of these regulations, such person or company so acquiring such mine or mineral claim, or interest therein, may, within one month from the time when he or it shall first acquire knowledge thereof, pay to the mining recorder of the district in which the claim affected is situate, the fee or fees

which ought to have been paid by such person or company in default as aforesaid, and thereupon the title of such person or company so acquiring the said mine or mineral claim, or interest therein, shall be deemed to be and always to have been as good and effectual as if no such default had occurred.

8. Every free miner shall, during the continuance of this certificate, but not longer, have the right to enter, locate, prospect, and mine for gold and other minerals upon any lands in the Yukon Territory, whether vested in the Crown or otherwise, except upon government reservations for town sites, land which is occupied by any building, and any land falling within the curtilage of any dwelling-house, and any land lawfully occupied for placer mining purposes, and also Indian reservations.

9. Previous to any entry being made upon lands lawfully occupied, such free miner shall give adequate security, to the satisfaction of the mining recorder, for any loss or damage which may be caused by such entry; and after such entry he shall make full compensation to the occupant or owner of such lands for any loss or damage which may be caused by reason of such entry; such compensation, in case of dispute, to be determined by a court having jurisdiction in mining disputes.

Nature and Size of Claims

10. A creek or gulch claim shall not exceed 250 feet in length, measured along the base line of the creek or gulch, established or to be established, by a Government survey. The rear boundaries of the claim shall be parallel to the base line, and shall be defined by measuring 1,000 feet on each side of such base line. In the event of the base line not being established, the free miner may stake out the claim along the general direction of the creek or gulch, but it will be necessary for him to conform to the boundaries which the base line, when established, shall define.

11. A river claim shall be situated only on one side of the river and shall not exceed 250 feet in length, measured in the general direction of the river. The rear boundary of the claim which runs in the general direction of the river shall be defined by measuring 1,000 feet from low water mark of the river.

12. The length of a hill claim shall not exceed 250 feet, drawn parallel to the base line of the stream or gulch on which it fronts, established or to be established by the Government. In the event of the base line not being established, a free miner may stake out the claim as near as possible parallel to the general direction of the creek or gulch on which it fronts, but it will be necessary for him to conform to the boundaries which the base line, when established, shall define.

Parallel lines drawn from each end of the front line at right angles thereto shall constitute the end boundaries of the claim. The rear boundary shall be defined by measuring 1,000 feet from its front boundary.

All claims for which entries have been granted in the past, may be defined in the manner above specified, by order of the gold commissioner, on the application of the registered owner thereof, where such proceeding will not interfere with any mining claim or property owned or held by any other person.

13. All other placer claims shall be 250 feet square.

14. Every placer claim shall be as nearly as possible rectangular in form, and marked by two legal posts firmly fixed in the ground to the base line at each

end of the claim. The line between the two posts shall be well cut out so that one post may, if the nature of the surface will permit, be seen from the other. The flatted side of each post shall face the claim, and on each post shall be written on the side facing the claim, a legible notice stating the name or number of the claim, or both, if possible, its length in feet, the date when staked, and the full Christian and surname of the locator. The posts shall also be numbered 1 and 2 respectively. It shall not be lawful to move post No. 1, but No. 2 may be moved by a Dominion land surveyor if the distance between the posts exceeds the length prescribed by these regulations, but not otherwise.

15. Provided that failure on the part of the locator of a mineral claim to comply with any of the foregoing provisions shall not be deemed to invalidate such location, if, upon the facts, it shall appear to the satisfaction of the mining recorder that there has been on the part of the locator a *bona fide* attempt to comply with the provisions of these regulations, and that the non-observance of the formalities hereinbefore referred to is not of a character calculated to mislead other persons desiring to locate claims in the vicinity.

16. The penalty for trespassing upon a claim reserved for the Crown, shall be immediate cancellation by the mining recorder of any entry or entries which the person trespassing may have obtained, whether by original entry or purchase, for a mining claim, and the refusal by the mining recorder of the acceptance of any application which the person trespassing may at any time make for a claim. In addition to such penalty, the mounted police, upon a requisition from the mining recorder to that effect, shall take the necessary steps to eject the trespasser.

17. In defining the size of claims, they shall be measured horizontally irrespective of inequalities on the surface of the ground.

18. If any free miner or party of free miners discovers a new mine, and such discovery shall be established to the satisfaction of the mining recorder, creek, river, or hill, claims of the following size shall be allowed, namely:—

To one discoverer, one claim, 1,000 feet in length.

To a party of two discoverers, two claims, amount together to 1,500 feet in length.

No royalty shall be imposed on the output of such claims.

To each additional member of a party beyond two in number, a claim of the ordinary size only.

19. A new stratum of auriferous earth or gravel situated in a locality where the claim have been abandoned shall for this purpose be deemed a new mine, although the same locality shall have been previously worked at a different level.

20. The forms of application for a grant for placer mining, and the grant of the same, shall be those contained in forms "H" and "I" in the schedule hereto.

21. A claim shall be recorded with the mining recorder in whose district it is situated, within ten days after the location thereof, if it is located within ten miles of the mining recorder's office. One extra day shall be allowed for every additional ten miles or fraction thereof.

22. A claim located on Sunday or any public holiday shall not for that reason be invalid.

23. In the event of the claim being more than 100 miles from a recorder's office, and situated where other claims are being located, the free miners, not less than five in number, are authorized to meet and appoint one of their number a "free miners' recorder," who shall act in that capacity until a mining recorder is appointed by the gold commissioner.

24. The "free miners' recorder" shall at the earliest possible date after his appointment, notify the nearest government mining recorder thereof, and upon the arrival of the Government mining recorder, he shall deliver to him his records and the fees received for recording the claims. The Government mining recorder shall then grant to each free miner whose name appears in the records, an entry for his claim on form "I" of these regulations, provided an application has been made by him in accordance with form "H" thereof. The entry to date from the time the "free miners' recorder" recorded the application.

25. If the "free miners' recorder" fails within three months to notify the nearest Government mining recorder of his appointment, the claims which he may have recorded will be cancelled.

26. During the absence of the mining recorder from his office, the entry for a claim may be granted by any person whom he may appoint to perform his duties in his absence.

27. Entry shall not be granted for a claim which has not been staked by the applicant in person in the manner specified in these regulations. An affidavit that the claim was staked out by the applicant shall be embodied in form "H" in the schedule hereto.

28. In case of any dispute as to the location of a claim, the title to the claim shall be recognized according to the priority of such location, subject to any question as to the validity of the record itself, and subject, further, to the free miner having complied with all the terms and conditions of these regulations.

29. An entry fee of fifteen dollars shall be charged the first year, and an annual fee of fifteen dollars for each of the following years. Application for renewal of entry for a claim shall be accompanied by an affidavit from the owner thereof verified by the mining recorder, that the royalty prescribed by the regulations to be paid upon the gross output of the claim, stating the sum, has been paid, and no renewal of entry shall be granted until this provision has been complied with and the full amount of royalty paid.

30. A statement of the entries granted and fees collected shall be rendered by the mining recorder to the gold commissioner at last every month, which shall be accompanied by the amount collected, or, if deposited to the credit of the Receiver General, by the deposit receipts.

31. A royalty of five per cent on the gold mined shall be levied and collected on the gross output of each claim. The royalty may be paid at banking offices to be established, under the auspices of the Government of Canada, or the gold commissioner, or to any mining recorder authorized by him. The sum of $5,000 shall be deducted from the gross annual output of a claim when estimating the amount upon which royalty is to be calculated, but this exemption shall not be allowed unless the royalty is paid at a banking office or to the gold commissioner or mining recorder. When the royalty is paid

monthly or at longer periods, the deduction shall be made ratable on the basis of $5,000 per annum for the claim. It shall be necessary for any one taking or exporting gold out of the territory to produce to the officers of the government at the boundary of the territory, a certificate from the gold commissioner that the royalty thereon has been paid, otherwise such gold shall be confiscated for the use of the Crown, and taken immediate possession of by the officers who discover the same. Police officers at the boundary line of the territory shall in respect of the searches and examinations to enforce the provisions of this section, have all the powers, rights, privileges, and protection of an officer under the *Customs Act*, chapter 32, R.S.C., and its amending Acts, within the meaning thereof, as if such officers were acting under the direct authority of a collector of customs, justice of the peace, or other authority, under the provisions of the said Act and its amending Acts.

Any further regulations considered necessary by the gold commissioner may be made by him with the approval of the commissioner of the territory. The royalty to form part of the consolidated revenue and to be accounted for by the officers who collect the same in due course.

32. Default in payment of such royalty, if continued for ten days after notice has been posted on the claim in respect of which it is demanded, or in the vicinity of such claim, by the gold commissioner or his agent, shall be followed by cancellation of the claim. Any attempt to defraud the Crown by withholding any part of the revenue thus provided for, by making false statements of the amount taken out, shall be punished by cancellation of the claim in respect of which fraud or false statements have been committed or made. In respect to the facts as to such fraud or false statements or non-payment of royalty, the decision of the gold commissioner shall be final.

33. After the recording of a claim the removal of any post by the holder thereof or by any person acting in his behalf for the purpose of changing the boundaries of this claim, shall act as a forfeiture of the claim.

Any person disturbing with intent to remove any legal post, stake, picket or other mark placed under the provisions of these regulations, or defacing or altering in any manner the notices on any of the legal posts placed thereon under these regulations, shall forfeit and pay a sum not exceeding $100 and costs; and, in default of payment of the fine and costs, may be imprisoned for any period not exceeding six months.

34. Any free miner having duly located a claim may obtain an entry therefor for one or for five years, by paying to the mining recorder, in advance, a fee of $15 for one year, or $75 for five years, but it shall be necessary for such free miner to comply with the provisions of section 41 of these regulations.

35. The holder of a creek, gulch or river claim may within sixty days after staking out the claim, obtain an entry for a hill claim adjoining it, by paying to the mining recorder the sum of $100. This permission shall also be given to the holder of a creek, gulch or river claim obtained under former regulations, provided that the hill claim is available at the time an application is made therefor.

36. No free miner shall receive a grant of more than one mining claim on each separate river, creek or gulch, except a hill claim, by purchase, as provided by section 35 of these regulations, or unless he has abandoned the claim for which he has received entry, and such abandonment has been duly

recorded. A free miner, however, may hold any number of claims by purchase.

37. A free miner may at any time abandon a placer mining claim for which he has received entry, by giving notice of his intention to do so to the mining recorder and paying a fee of $2, provided he can show by his own evidence, corroborated by the mining inspector, that sufficient work has been done on the claim to prove that the ground which he wishes to abandon cannot be profitably worked by the ordinary placer mining methods, and upon this condition being complied with, he may obtain entry for another claim on the same river, creek or gulch, in lieu of the one abandoned.

38. Any free miner or miners may sell, mortgage, or dispose of his or their claims, provided such disposal be registered with, and a fee of $2 paid to the mining recorder, who shall there upon give the assignee a certificate in the form "J" in the schedule hereto.

39. Every free miner shall during the continuance of his grant have the exclusive right of entry upon his own claim for the miner-like working thereof, and the construction of a residence thereon, and shall be entitled exclusively to all the proceeds realized therefrom, upon which, however, the royalty prescribed by these regulations shall be payable; provided that the mining recorder may grant to the holders of other claims such right to entry thereon as may be absolutely necessary for the working of their claims, upon such terms as may to him seem reasonable. He may also grant permits to miners to cut timber thereon for their own use.

40. Every free miner shall be entitled to the use of so much of the water naturally flowing through or past his claim, and not already lawfully appropriated, as shall, in the opinion of the mining recorder, be necessary for the due working thereof, and shall be entitled to drain his own claims free of charge. Every holder of a water record shall take all reasonable means for utilizing the water granted to him, and if he wilfully wastes any water or takes a quantity of water in excess of his actual requirements, the mining recorder may, upon notice, cancel or reduce the record or impose such conditions as he may think proper.

41. a) Any free miner having duly located and recorded a claim, shall be entitled to hold it for a period for which he received entry and thence from year to year by re-recording the same; provided, however, that during each year and each succeeding year, such free miner shall do, or cause to be done, work on the claim itself to the value of two hundred dollars, and shall satisfy the mining recorder that such work has been done by an affidavit of the free miner, corroborated by two reliable and disinterested witnesses, setting out a detailed statement of the work done, and shall obtain from the mining recorder a certificate of such work having been done, for a which a fee of two dollars will be charged. If however, royalty has been paid on gold mined from a claim during the year, the affidavit of the free miner as to the value of the work done will be sufficient. Provided, if it is subsequently proved that the miner has made a false affidavit as to the work done on the claim, his title thereto shall be forfeited.

b) Provided that all work done outside of a mining claim with intent to work the same shall, if such work has direct relation, and be in direct proximity to the claim, be deemed, if to the satisfaction of a responsible Government officer, to be work done on the claim for the purpose of this section.

c) A free miner may, if he so desires it, in lieu of an affidavit corroborated in the manner specified in the first clause of this section, have an inspection made by a mining inspector, who will submit his report to the mining recorder as to the amount of work done on the claim during the year, for which a charge will be made according to the time occupied in making the inspection but in no case to exceed $20. The application for said inspection shall be made by the miner to the mining inspector at least three months prior to the date the entry for a claim expires, and a copy of the application shall be forwarded by the mining inspector to the gold commissioner upon its receipt.

d) Provided, further, that any free miner or company of free miners holding adjoining claims not exceeding ten in number may, notwithstanding anything in the regulations to the contrary, work the same in partnership under the provisions of the regulations upon filing a notice of their intention with mining recorder, and upon obtaining a certificate from him, for which a fee of two dollars will be charged. This certificate will entitle the holders thereof to perform any one or more of such claims all the work required to entitle him or them to a certificate of work for each claim so held by him or them.

e) The holder of a claim may, at his option, in lieu of the work required to be done thereon each year, pay to the mining recorder in whose office the claim is recorded the sum of two hundred dollars for each of the first three years, but for the fourth and succeeding years the sum of four hundred dollars must be paid in lieu of work done on the location or in connection therewith, as provided by the regulations. A certificate from the mining recorder that such payment has been made shall relieve the person making it from the necessity of doing any work during the year.

If at the end of the year the annual amount of work has not been performed, nor the commutation fee paid, as above vested, the claim shall be deemed to be abandoned, and open to occupation and entry by a free miner.

f) Any amounts received in lieu of assessment work shall form part of the consolidated revenue.

g) If a claim is owned by more than one free miner, and a co-owner, or co-owners, who applied for a renewal of entry thereof, allege that the remainder of the co-owners have not performed their proportion of the assessment work, or have refused to pay their proportion of the sum prescribed by these regulations to be paid in lieu of such work, he or they may lodge a statement to that effect with the mining recorder, which will prevent any disposition of the claim for a period of fifteen days from the date thereof, within which period he or they may apply to the gold commissioner for an order to file a lien against the claim for the amount due to them. The gold commissioner, if he is satisfied from the evidence produced that the representations made to him are in accordance with the facts, may issue such order, and the lien shall thereupon be filed by the mining recorder against the delinquent co-owners' interest, and thereafter no transfer of the delinquent co-owners' interest shall be accepted until the amount of the lien against such interest has been paid to the person entitled thereto, unless the delinquent co-owner can prove to the satisfaction of the gold commissioner that he had complied with the regulations as to performing his proportion of the assessment work, or paid his proportion of the commutation fee.

42. No officer or person employed by the Government of Canada in any

capacity whatever in the Yukon Territory, and no officer or member of the militia or of any military force stationed in the Yukon Territory, and no officer or member of the North-west mounted police stationed in the said territory, shall stake or record in his own name, or in the name of any other person or corporation for his benefit, any mining claim in the said territory, nor shall any such person acquire or become the purchaser from the Crown of any Dominion lands in the said Yukon Territory, nor shall any such person acquire by purchase or otherwise any mining claim of any kind or description whatsoever in the said Yukon Territory.

No person to whom the prohibition in the next preceding clause applies shall act as the agent of any person or corporation in or with respect to the staking, recording, purchase or acquisition of any mining claim or property of any Dominion lands in the said territory.

Any person guilty of violating any of the provisions of this Order in Council shall be liable to dismissal from the public service or from the military or police force as the case may be.

43. The unrecorded mining claims on Dominion Creek, in the Yukon Territory, are reserved to the Crown.

44. Regulations and amendments thereto which may be passed from time to time shall come into force upon a day five weeks from the date of the Order in Council authorizing the same; and it shall be the duty of the gold commissioner to post in a conspicuous place in his office, regulations or any amendments thereto within twenty-four hours after receiving the same.

45. The Minister of the Interior may dispose of any whole or fractional mining claims reserved to the Crown in the Yukon Territory in such manner as he may decide.

46. a) Surveys of claims made under instructions issued by direction of the commissioner of the Yukon Territory to a duly qualified Dominion land surveyor named by him, shall be accepted as defining absolutely the boundaries of the claims surveyed, provided the returns of the survey are approved by the commissioner or an official appointed by him for that purpose, and that notice of such survey has been published in the *Yukon Official Gazette* for twelve successive issues and remains unprotested during that period.

b) The owner of the claim shall, prior to the first appearance of the advertisement in the *Yukon Official Gazette* cause to be posted in a conspicuous spot on the claim a notice of his intention to advertise the survey of the claim, and also a plan of the survey of the claim prepared by the surveyor.

c) If, within the time such notice is published, the survey is protested, the protest shall be heard and decided upon by the gold commissioner. The gold commissioner shall apportion the costs of such hearing against the parties to the suit as he thinks fair and just.

d) If a decision is rendered varying the boundaries of the claim from those defined by the advertised survey, the owner of the claim may have the claim re-surveyed and fresh returns prepared embodying the changes involved by such decision, and such re-survey being approved by the commissioner, or the official appointed by him for that purpose, may be accepted by the gold commissioner in lieu of his survey that has been protested, without further advertisement.

e) The expense in connection with the survey and advertisement of claims shall be defrayed by the owner or owners of the claims, but no fees will be charged by the Government for filing plans or other documents in connection therewith.

f) The commissioner on behalf of the Government of Canada may authorize the survey of the base line of any river, creek or gulch, such survey to be made under the instructions of an official appointed by the commissioner, and such survey shall be subject to the preceding clauses as to advertisement and protest, excepting clause b) as far as they can be made to apply.

47. No free miner shall suffer from any acts of omission, or commission, or delays on the part of any Government official, if such can be proven.

48. The mining inspector may mark out a space of ground for deposit of leavings and deads from any tunnel, claim or mining ground, upon such terms as he may think just.

49. The mining inspector shall have the power to summarily order any mining works to be so carried on as not to interfere with or endanger the safety of the public or any employees of such mining works, any public work or highway, or any mining property, mineral claims, mining claims, bed-rock drains, or bed-rock flumes; and any abandoned works may by his order be either filled up or guarded to his satisfaction.

50. No person mining upon any claim shall cause damage or injury to the holder or any claim other than his own by throwing earth, clay, stones, or other material upon such other claim, or by causing or allowing water which may be pumped or baled, or may flow from his own claim, to flow into or upon such other claim under the penalty of not more than $200 and costs, and in default of the payment of the fine and costs he may be imprisoned for any period not more than one month.

51. Every free miner, on application to the mining recorder of the district, shall be entitled to a printed copy of these regulations free of charge.

52. Affidavits and declarations made under the provisions of these regulations can be made before any person duly authorized to administer an oath or declaration.

53. The gold commissioner, or any one deputed by him, or by the mining recorder, shall have the right to enter into or upon and examine any mineral claim or mine within the meaning of these regulations.

54. Where a claim has been recorded under any name or number, and the owner or his agent is desirous of changing the same, the mining recorder may, upon application being made by such owner or agent, and upon payment of a fee of five dollars, amend the record accordingly. Provided, however, that such change of name or number shall not in any way affect or prejudice any proceedings or execution against the owners of the said claim.

55. Whenever, through the acts or default of any person other than the recorded owner of a mineral claim or his agent by him duly authorized, the evidence of the location or record on the ground, or the situation of a mineral claim, has been destroyed, lost or effaced, or is difficult of ascertainment, nevertheless effect shall be given to same as far as possible, and the gold commissioner shall have power to make all necessary inquiries, directions and references in the premises, for the purposes of carrying out the object hereof, and vesting title in the first *bona fide* acquirer of the claim.

56. Nothing herein contained shall be construed to limit the right of the commissioner of the Yukon Territory to lay out, from time to time, public roads across, through, along or under any ditch, water privilege or mining right, without compensation.

57. Nothing herein contained shall affect any litigation pending at the time of the passage of these regulations.

58. Should it be proven to the satisfaction of the mining recorder that any free miner has been guilty of misrepresentation in the statement sworn to by him in recording any claim or in any of the statements required to be made by him under oath under these regulations, or to have been found removing or disturbing with intent to move, or defacing any legal post or stake or other mark placed under the provisions of these regulations, the mining recorder may cancel the said free miner's certificate and may in his discretion order that such person be debarred from the right to obtain a free miner's certificate for any length of time as he may deem advisable. The mining recorder shall forthwith, upon any such decision by him, notify every other mining recorder of such decision. Every free miner shall have the right to appeal from the decision of the mining recorder to the gold commissioner.

Administration of Estates of Deceased Miners

59. a) In case of the death of any miner while entered as the holder of any mining claim, the provisions as to abandonment shall not apply either during his last illness or after his decease.

b) The commissioner of the Yukon Territory may either cause the mining property of any deceased person to be worked in the usual manner, or may cause the working of such property to be dispensed with for such periods as the necessity of the case may in his opinion demand; and he may also, if he sees fit, cause the public administrator of the territory to take possession of such mining property, until it is administered by him under the provisions of any ordinance respecting the administration of the estates of deceased persons in the Yukon Territory, now or hereafter to be made or passed, or until such mining property has been taken possession of by any person or persons entitled to take possession of it under letters of administration granted by the proper court in that behalf.

c) All charges and expenses which may be incurred by the commissioner or the public administrator, or by any person acting under the instructions of either of them, in or about the working of the said mining property or in taking or keeping possession thereof, shall be and remain a first charge against the same, until paid to the commissioner or public administrator, as the case may be.

Drainage of Mines

60. The mining recorder may grant to any person or persons permission to run a drain or tunnel for drainage purposes through any occupied mining land, and may give such persons exclusive rights of way through and entry upon any mining ground for any term not exceeding five years, for the purpose of constructing a drain or drains for the drainage thereof.

61. The grantee shall compensate the owners of lands or holders of claims entered upon by him for any damage they may sustain by the construction of such tunnel or drain, and such compensation, if not agreed upon, shall be settled by the gold commissioner and be paid before such drain or tunnel is constructed.

62. Such drain or tunnel when constructed, shall be deemed to be the property of the person or persons by whom it shall have been so constructed.

63. Every application for a grant shall state the name of the applicants, the nature and extent of the proposed drain or drains, the amount of toll (if any) to be charged and the privilege sought to be acquired, and shall, save where the drain is intended only for the drainage of the claim of the person constructing the same, be accompanied by a deposit of $25, which shall be refunded in case the application is refused, but not otherwise. The full days' notice thereof shall be given between the months of June and November, and between the months of November and June one month's notice shall be given, by affixing the same to a post planted in some conspicuous part of the ground and a copy thereof conspicuously upon the inner walls of the mining recorder's office for the district. Prior to such application, the ground included therein shall be marked out to the satisfaction of the mining recorder. It shall be competent for any person to protest before the gold commissioner within the times hereinbefore prescribed for the notice of such application, but not afterwards, against such application being granted.

64. The grant of the right of way to construct drains and tunnels shall be made in the form "L" in the schedule hereto. The grant shall be registered by the grantee in the office of the mining recorder, to whom he shall at the time pay a registration fee of $5, or, if the grant gives power to collect tolls, a fee of $10. An annual rent of $10 shall be paid, in advance, by the said grantee for each quarter of mile of right of way legally held by him, save where the drain shall be for the purpose of draining only the claim of the person constructing the same.

O.C. 27 November 1901

By Order in Council of the 27th of November, 1901, in virtue of clause 47 of the *Dominion Lands Act*, as enacted by section 5 of chapter 15 of the Act 55-56 Victoria and of section 8 of the *Yukon Territory Act*, as that section was enacted by section 2 of chapter 11 of 62-63 Victoria, clause 38 of the regulations governing placer mining in the Yukon Territory, approved of by the Governor General in Council on the 13th day of March, 1901, was rescinded, and the following clause substituted therefor:—

> Any free miner or miners may sell, mortgage, or dispose of his or their claims provided the instrument showing such disposal be deposited with, and a fee of two dollars paid to the mining recorder, who shall thereupon register the instrument in duplicate and return to the assignee one of the duplicates with a certificate endorsed thereon that it has been recorded his office, and retain the other.

O.C. 15 April 1902

By Order in Council of the 15th of April, 1902, it was declared that the provision of subclause d) of clause 41 of the regulations governing placer mining in the Yukon Territory, established by Order in Council of 13th March, 1901, which provides that any free miner or company of free miners holding adjoining claims not exceeding ten in number may, notwithstanding anything in the regulations to the contrary, work the same in partnership under the provisions of the regulations upon filing a notice of their intention with the mining recorder, and upon obtaining a certificate from him, for which a fee of two dollars will be charged. This certificate will entitle the holders thereof to perform on any one or more of such claims all the work required to entitle him or them to a certificate of work for each claim so held by him or them, may also apply to any number of claims, provided the Government mining engineer reports to the Commissioner of the territory that the claims are suitable for hydraulic mining purposes; that there is a sufficient quantity of water available with which to successfully operate the location; and that there is a sufficient dumping ground upon which to deposit the tailings from the operation, and that the application has been approved by the Commissioner of the Yukon Territory.

O.C. 19 May 1902

By Order in Council of the 19th of May, 1902, in virtue of clause 47 of the *Dominion Lands Act*, as enacted by section 5 of chapter 15 of 55-56 Victoria and of section 8 of the *Yukon Territory Act*, as enacted by section 2 of chapter 11 of 62-63 Victoria, section 7 of the regulations governing placer mining in the Yukon Territory, established by Order in Council dated 13th March, 1901, which provides that a person or joint stock company, and every person in his or its employment except those servants, shall have a free miner's certificate unexpired, was amended by leaving out the words "and every person in his or its employment, except house servants."

O.C. 31 May 1902

By Order in Council of the 31st of May, 1902, in virtue of the provision of clause 47 of the *Dominion Lands Act*, as enacted by section 5 of chapter 15 of 55-56 Victoria, and of section 8 of the *Yukon Territory Act*, as enacted by section 3 of chapter 34 of 2 Edward VII, clause a) of section 41 of the regulations governing placer mining in the Yukon Territory established by Order in Council dated 23th March, 1901, was amended by adding the following paragraph thereto:—

> If a claim is not re-recorded within three months subsequent to the date up to which it was recorded, the claim shall then be deemed to be abandoned and open for occupation and entry by a free miner even although the required among of work may have been done within the year for which the claim was recorded or the commutation fee paid in lieu thereof, and the certificate called for by the regulations obtained.

O.C. 31 October 1902

By Order in Council of the 31st October, 1902, in virtue of clause 47 of the *Dominion Lands Act*, as enacted by section 5 of the Act 55-56 Victoria, chapter 15, and of section 8 of the *Yukon Territory Act*, as enacted by section 3 of the Act 2 Edward VII, chapter 34, the Order in Council of the 15th of April, 1902, amending subclause d) of clause 41 of the regulations governing placer mining in the Yukon Territory, established by Order in Council of the 13th March, 1901, was amended by adding the following paragraph:—

> The same provision may also apply to any number of claims which can be worked by dredging, or by any other extensive method satisfactory to the Government mining engineer; and this provision may cover any claims worked in this manner on and after the 1st of July, 1902.

O.C. 31 March 1903

By Order in Council of the 31st of March, 1903, in virtue of clause 47 of the *Dominion Lands Act*, as enacted by section 5 of the Act 55-56 Victoria, chapter 15, and of section 8 of the *Yukon Territory Act*, as enacted by section 3 of the Act 2 Edward VII, chapter 34, the provisions contained in the several subclauses of section 41 of the regulations established by Order in Council of the 13th of March, 1901, for payment at the option of the free miner, in lieu of assessment work, were rescinded on and after the first day of August, 1903.

O.C. 8 September 1903.

By Order in Council of the 8th of September, 1903, it was ordered that under the regulations governing placer mining in the Yukon Territory, mere membership in the Dawson Rifle Company, or in any any other local corps of the active militia not permanently employed and paid by the Government, shall not disqualify a member thereof (if otherwise not disqualified under section 42 of the regulations) from holding a mining claim in the Yukon Territory

O.C. 2 May 1904

By Order in Council of the 2nd of May, 1904, in virtue of clause 47 of the *Dominion Lands Act*, as enacted by section 5 of chap. 15 of 55-56 Victoria, and of section 8 of the *Yukon Territory Act*, as enacted by section 3 of chap. 34 of 2 Edward VII, section 59 of the regulations governing placer mining in the Yukon Territory was rescinded, and the following substituted in lieu thereof:—

> 59. a) In case any miner while entered as the holder of any mining claim dies or is adjudged to be insane, the provisions as to abandonment shall not apply, in the one case, either during his last illness or after his decease, or in the other case, either after he has been so adjudged or, if it appears that the neglect or omission on account or by reason of which such claim would otherwise have been deemed to be abandoned was attributable to his insanity, during such period prior to his having been so adjudged as he shall be shown to have been insane.
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> b) The commissioner of the Yukon Territory may either cause the mining property of any deceased or insane person to be worked in the usual manner, or may cause the working of such property to be dispensed with for such periods as the necessity of the case may in his opinion demand; and he may also, if he sees fit, cause the public administrator of the territory to take possession of such mining property until it is administered by him under the provisions of any ordinance respecting the administration of the estates of deceased or insane persons in the Yukon Territory, now or hereafter to be made or passed, or until such mining property has been taken possession of by any person or persons entitled to take possession of it under letters of administration granted by the proper court in that behalf.
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> c) All charges and expenses which may be incurred by the commissioner or the public administrator, or by any person acting under the instructions of either of them, in or about the working of the said mining property or in taking or keeping possession thereof, shall be and remain a first charge against the same, until paid to the commissioner or public administrator, as the case may be.

Hydraulic Mining

O.C. 3 December 1898

By Order in Council of the 3rd of December, 1898, the following regulations were made for the disposal of mining locations to be worked by the hydraulic or other mining process in the Yukon Territory:—

1. Locations on any streams, watercourse or plateau in the Yukon Territory, shall have a frontage in direct line of from one to five miles in length as may

be decided by the Minister of the Interior, and a depth of one mile, but where such location is situate in a valley its depth may extend to the limits of the valley if so ordered by the Minister of the Interior: Provided that in the case of a location situate on a stream or watercourse, the depth of such location shall be measured from low water mark, and the lease thereof shall be subject to any lease for the dredging of such stream or watercourse which may have been issued prior to the date of the lease of the location.

2. Each alternate claim shall, until otherwise ordered by the Minister of the Interior, be reserved.

3. To any person who has prior to the date hereof filed an application in the Department of the Interior at Ottawa, or in the office of the Commissioner of the Yukon Territory or in the office of the gold commissioner for a mining location in the Yukon Territory not provided for by the mining regulations already in force, the Minister of the Interior may issue a lease subject to the same conditions as to size and otherwise, and conferring the same rights as a lease issued under these regulations for a location acquired at public competition; provided that the Commissioner has reported that it has been proved to his satisfaction that the applicant himself, or a person acting for him, was upon and actually prospected prior to the date hereof the ground included in the location, and provided further that the gold commissioner has reported that the ground included in the location is not being worked and is not suitable to be worked under the regulations governing placer mining. But under this section no person shall be given a lease for more than one location.

4. The unreserved locations not disposed of under the next preceding section shall be offered at public competition, and awarded to the highest bidder after being advised in such manner and at such time as the Minister of the Interior may direct; and to the person or corporation to whom any such location may be awarded at such competition the Minister of the Interior may, after such person or corporation has obtained a free miner's certificate as provided in the regulations governing placer mining, and filed in the Department of the Interior at Ottawa, within a period to be fixed by the Minister, a Dominion land surveyor's plan of the location, issue a lease of the same for a term not exceeding twenty years, such lease to be renewable before a further period of twenty years upon the performance to the satisfaction of the Minister of the Interior of the conditions imposed thereby.

5. In addition to the bonus offered there shall be paid in advance by each lessee an annual rental of $150 for each mile of frontage; and the same royalty shall be paid upon the output of gold as is provided or may hereafter be provided in the case of placer claims; except that there shall be exempted from such royalty $25,000 of the annual output, the royalty to be paid in the manner provided in the regulations governing placer mining.

6. The lease shall be in such form and contain such conditions, not inconsistent with these regulations, as may be approved of by the Minister of the Interior.

7. The lessee shall be required to being active operations on his location within one year form the date of his lease, and he shall be required to expend in operating his location not less than $5,000 during each year form the date of the lease.

8. The lease shall not convey the right to mine for any minerals other than the precious metals, nor shall it convey the right to engage in quartz mining

otherwise than in accordance with and subject to the regulations governing quartz mining; and it shall reserve to free miners the right to enter upon the location covered by it, take up, locate and mine for minerals, in veins or loads in the manner provided in the said regulations.

9. The lessee shall have the exclusive right to enter upon and occupy his location for the purpose of mining thereon, but the lessee shall not prevent free ingress and egress to any person requiring to cross his location or the conveyance thereover of any mining appliances, apparatus or plant which may be required in the working of any other mining ground; and the lessee's right or occupation shall be subject to all orders which may be made by the Minister of the Interior, or the gold commissioner as to such right of way, and also for ditches, flumes or tramways as may by the said Minister or gold commissioner be considered necessary or advisable in order to facilitate the working of any other mining ground, and subject further to such orders as may be made by the Minister of the Interior or the Commissioner of the Yukon Territory as to the right of way for railways, road or other public works.

10. The lessee's right to water on his location or to the diversion of water in connection with his operations thereon shall be subject to the regulations approved by Order in Council of the 3rd August, 1898.

11. The holder of a lease may cut, free of dues, such of the timber on a location as may be necessary for working the same in connection with his mining operations, but not for sale or traffic, except in cases where such timber has been granted or disposed of prior the the date of the lease; provided that the Commissioner of the Yukon Territory may grant a permit to a leaseholder to cut and sell any timber which it is necessary to remove in order to work the location, and may permit any person to cut and remove from a location cordwood for his own use, when such cordwood cannot otherwise be had within a reasonable distance; but no such permit shall convey the right to cut or remove wood required by the lessee for his mining operations.

12. In case any lessee shall at any time make default in the payment of the rental or the royalty payable under these regulations, or shall make default in the performance of the conditions imposed by these regulations, or by the lease, the gold commissioner may post a notice in a conspicuous place upon the location in connection with which such default has been made, and may mail a copy of such notice of the last address of the lessee known to the commissioner, requiring such default to be remedied, and in case such default is not remedied within three months of the date of the posting of the notice upon the location all the rights of the lessee under the lease and under these regulations shall be and become *ipso facto* null and void.

13. When it is decided to hold any ground for the purpose of the same being included in locations under these regulations the gold commissioner shall cause a notice to that effect to be posted in a prominent and conspicuous place in the office of the mining recorder of the district in which the ground is situate; and after the posting of such notice no occupation or right under the regulations governing placer mining shall be recognized or any ground so held; but any *bona fide* occupation or right acquired under such regulations prior to the posting of such notice shall be recognized, and the gold commissioner shall make provision for the miner who has acquired such occupation or right being protected in the same.

14. If any case arises for which no provision is made in these regulations, the provisions of the regulations governing the disposal of mineral lands other than coal lands, approved by His Excellency the Governor or in Council on the 21st March, 1898, and of the placer mining regulations approved on the 18th January, 1898, or such other regulations as may be substituted therefor, shall apply.

O.C. 2 March 1900

By Order in Council of the 2nd of March, 1900, clause 3 of the regulations for the disposal of mining locations in the Yukon Territory to be worked by hydraulic or other mining process made by Order in Council of 3rd December, 1898, as amended by Order in Council dated 24th October, 1899, was amended to read as follows:—

> To any person who files an application in the Department of the Interior at Ottawa for a location previously prospected by him, or his authorized agent at the time the location was prospected, a lease will be issued provided he is the first qualified applicant therefor. Before the issue of any such lease there shall be filed in the Department of the Interior at Ottawa a report from the Gold Commissioner to the effect that it has been proved to his satisfaction that the applicant himself, or a person acting for him, was upon and actually prospected, prior to the date of the application, the ground included in the location and that the ground included in the location is not being worked and is not suitable to be worked under the regulations governing placer mining.

O.C. 25 August 1900

By Order in Council of the 25th of August, 1900, the Order in Council of the 2nd of March, 1900, was amended so as to proved that no application for a lease for hydraulic mining purposes shall be entertained for any tract which includes within its boundaries any placer, quartz or other mining claim acquired under the regulations in that behalf, or in the immediate vicinity of which placer, quartz or other mining claims have been discovered and are being profitably operated, and also that the gold commissioner shall, in addition to furnishing the usual reports be required to furnish a certificate that the location applied for does not contain any such placer, quartz or other mining claim, and that no such claims have been granted in the immediate vicinity of such location.

By the same Order, the said Order in Council of the 2nd March, 1900, was further amended by adding the following provision:—

> An applicant for hydraulic mining lease shall, in addition to furnishing the certificates required by section 3 of the regulations file in the Department of the Interior a declaration made by a mining engineer, or other competent person, to the satisfaction of the Minister of the Interior, that the location applied for is suitable for hydraulic mining purposes; that there is sufficient quantify of water available with which to successfully operate the location; and that there is a sufficient dumping ground upon which to deposit the tailings produced from his operations.

It was also ordered by the same Order in Council that should coal or other mineral not already specified be found to exist within the limits of a hydraulic mining location granted under the regulations above referred to, the lease shall not convey the right to mine the same otherwise than in accordance with the regulations in that behalf, and it shall reserve to the Crown the right to grant leases for the mining of such coal or other mineral, or the disposal of the land containing the same or so much thereof as may constitute an easement to the mine, upon such terms and under such conditions as may be prescribed by the Governor in Council.

By the same Order in Council, section 2 of the regulations established by the Order in Council of the 3rd December, 1898, providing that each alternate claim shall, until otherwise ordered by the Minister of the Interior, be reserved, was rescinded.

O.C. 5 January 1901

By Order in Council of the 5th of January, 1901, clause 8 of the regulations for the disposal of mining locations in the Yukon Territory established by Order in Council of 3rd December, 1898, as amended by Order in Council of 25th of August, 1900, was amended by adding thereto the following clause:—

> The lease shall be subject to the right of the Crown to withdrawn from the operation of the lease at any time during its currency, portions of the location for agricultural or building purposes, which at the time of such withdrawal are not being operated by the lessee.

O.C. 19 May 1902

By Order in Council of the 19th of May, 1902, clause 3 of the regulations for the disposal of mining locations in the Yukon Territory to be worked by hydraulic mining process made and established by the Governor in Council on the 3rd of December, 1898, as amended by Order in Council of 2nd March, 1900, which provides that an application for a location shall be filed in the Department of the Interior at Ottawa, was amended so as to provide that the application shall be filed with the Commissioner of the Yukon Territory at Dawson; and that no lease be issued for a location unless it is recommended by him.

And further the exemption of royalty on $25,000 of the annual output of a location, provided for in section 5 of the aforesaid regulations, was rescinded on, from and after the date hereof.

O.C. 2 February 1904

By Order in Council of the 2nd of February, 1904, the regulations for the disposal of mining locations in the Yukon Territory to be worked by the hydraulic mining process, established by the Order in Council of the 3rd of December, 1898, and amended by subsequent Orders in Council were rescinded and the Minister of the Interior was authorized to deal in accordance with the provisions of the said regulations, with all leases already issued, and with all applications which have already been granted under the provisions thereof.